

House Bill 228 (AS PASSED HOUSE AND SENATE)

By: Representatives Butler of the 18th, Harbin of the 118th, Cole of the 125th, Keen of the 179th, Oliver of the 83rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend various titles of the Official Code of Georgia Annotated so as to reorganize and
2 reestablish various state health and human services agencies; to reestablish the Department
3 of Community Health; to establish the Department of Human Services and the Department
4 of Behavioral Health and Developmental Disabilities; to reassign various functions to the
5 new agencies; to provide for transition to the new agencies; to provide for a board for each
6 agency; to reconstitute the Board of Community Health; to abolish the Board of Human
7 Resources; to establish the position of State Health Officer; to establish the Behavioral
8 Health Coordinating Council; to establish the Advisory Council for Public Health; to
9 establish the Public Health Commission; to provide for inspection warrants for residential
10 child care licensing; to revise a provision in state health planning; to provide for criminal
11 background checks for employees of the Department of Behavioral Health and
12 Developmental Disabilities; to repeal the automatic sunset provision for the State
13 Commission on Family Violence; to amend various titles for purposes of conformity; to
14 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
15 other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 PART I

18 Department of Community Health.

19 SECTION 1-1.

20 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
21 and redesignating Chapter 5A, relating to the Department of Community Health, and revising
22 Chapter 2, relating to the Department of Human Resources, as follows:

"CHAPTER 2

~~31-5A-1. 31-2-1.~~

Given the growing concern and complexities of health issues in this state, it is the intent of the General Assembly to create a Department of Community Health dedicated to health issues. ~~Recognizing that the manner in which health care is currently administered at the state level is fragmented and often unresponsive to health care issues, the new department is created for the following purposes~~ The Department of Community Health shall safeguard and promote the health of the people of this state and is empowered to employ all legal means appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the department is empowered to:

(1) ~~To serve~~ Serve as the lead planning agency for all health issues in the state to remedy the current situation wherein the responsibility for health care policy, purchasing, planning, and regulation is spread among many different agencies;

(2) ~~To permit~~ Permit the state to maximize its purchasing power and to administer its operations in a manner so as to receive the maximum amount of federal financial participation available in expenditures of the department ~~inasmuch as the state now has none of its health care purchasing coordinated;~~

(3) ~~To minimize~~ Minimize duplication and maximize administrative efficiency in the state's health care systems by removing overlapping functions and streamlining uncoordinated programs;

(4) ~~To allow~~ Allow the state to develop a better health care infrastructure that is more responsive to the consumers it serves while improving access to and coverage for health care; ~~and~~

(5) ~~To focus~~ Focus more attention and departmental procedures on the issue of wellness, including diet, exercise, and personal responsibility;

(6) Provide epidemiological investigations and laboratory facilities and services in the detection and control of disease, disorders, and disabilities and to provide research, conduct investigations, and disseminate information concerning reduction in the incidence and proper control of disease, disorders, and disabilities;

(7) Forestall and correct physical, chemical, and biological conditions that, if left to run their course, could be injurious to health;

(8) Regulate and require the use of sanitary facilities at construction sites and places of public assembly and to regulate persons, firms, and corporations engaged in the rental and service of portable chemical toilets;

(9) Isolate and treat persons afflicted with a communicable disease who are either unable or unwilling to observe the department's rules and regulations for the suppression of such

disease and to establish, to that end, complete or modified quarantine, surveillance, or isolation of persons and animals exposed to a disease communicable to man;

(10) Procure and distribute drugs and biologicals and purchase services from clinics, laboratories, hospitals, and other health facilities and, when authorized by law, to acquire and operate such facilities;

(11) Cooperate with agencies and departments of the federal government and of the state by supplying consultant services in medical and hospital programs and in the health aspects of civil defense, emergency preparedness, and emergency response;

(12) Prevent, detect, and relieve physical defects and deformities;

(13) Promote the prevention, early detection, and control of problems affecting the dental and oral health of the citizens of Georgia;

(14) Contract with county boards of health to assist in the performance of services incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies of more than local peril, to employ whatever means may be at its disposal to overcome such emergencies;

(15) Contract and execute releases for assistance in the performance of its functions and the exercise of its powers and to supply services which are within its purview to perform;

(16) Enter into or upon public or private property at reasonable times for the purpose of inspecting same to determine the presence of disease and conditions deleterious to health or to determine compliance with health laws and rules, regulations, and standards thereunder;

(17) Promulgate and enforce rules and regulations for the licensing of medical facilities wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are to be performed; and, further, to disseminate and distribute educational information and medical supplies and treatment in order to prevent unwanted pregnancy; and

(18) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' a schedule of fees for laboratory services provided, schedules to be determined in a manner so as to help defray the costs incurred by the department, but in no event to exceed such costs, both direct and indirect, in providing such laboratory services, provided no person shall be denied services on the basis of his or her inability to pay. All fees paid thereunder shall be paid into the general funds of the State of Georgia. The individual who requests the services authorized in this paragraph, or the individual for whom the laboratory services authorized in this paragraph are performed, shall be responsible for payment of the service fees. As used in this paragraph, the term 'individual' means a natural person or his or her responsible health benefit policy or Title XVIII, XIX, or XXI of the federal Social Security Act of 1935.

~~31-5A-2.~~ 31-2-2.

Notwithstanding the provisions of Code Section ~~31-1-1~~, as As used in this chapter, the term:

(1) 'Board' means the Board of Community Health established under Code Section ~~31-5A-3~~ 31-2-3.

(2) 'Commissioner' means the commissioner of community health established under Code Section ~~31-5A-6~~ 31-2-6.

(3) 'Department' means the Department of Community Health established under Code Section ~~31-5A-4~~ 31-2-4.

~~(4) 'Department divisions' means the Division of Health Planning, Division of Medical Assistance, Division of Public Employee Health Benefits, and any other division of the department established by the board.~~

~~(5) 'Division of Health Planning' means the Division of Health Planning established as such pursuant to paragraph (1) of subsection (b) of Code Section 31-5A-4.~~

~~(6) 'Division of Medical Assistance' means the Division of Medical Assistance established as such pursuant to paragraph (2) of subsection (b) of Code Section 31-5A-4.~~

~~(7) 'Division of Public Employee Health Benefits' means the Division of Public Employee Health Benefits established as such pursuant to paragraph (3) of subsection (b) of Code Section 31-5A-4.~~

~~(8)~~(4) 'Predecessor agency or unit' means the ~~State Personnel Board, solely with respect to actions regarding the state health benefit plan, the Health Planning Agency, and the Department of Medical Assistance~~ Department of Community Health, the Division of Public Health of the Department of Human Resources, and the Office of Regulatory Services of the Department of Human Resources.

~~(9)~~(5) 'State health benefit plan' means the health insurance plan authorized under Article 1 of Chapter 18 of Title 45 and Part 6 of Article 17 of Chapter 2 of Title 20.

~~(10)~~(6) 'State Personnel Board' means the board established under Article IV, Section III of the Constitution.

~~31-5A-3.~~ 31-2-3.

(a) There is ~~created~~ reconstituted the Board of Community Health, as of July 1, 2009, which shall establish the general policy to be followed by the Department of Community Health. The powers, functions, and duties of the Board of ~~Medical Assistance~~ Community Health as they existed on June 30, ~~1999~~ 2009, with regard to the ~~Department of Medical Assistance, and the powers, functions, and duties of the State Personnel Board as they existed on June 30, 1999, with regard to the state health benefit plan~~, are transferred to the

reconstituted Board of Community Health effective July 1, ~~1999~~ 2009. The board shall consist of nine members appointed by the Governor and confirmed by the Senate.

(b) ~~The Governor shall designate the initial terms of the members of the board as follows: three members shall be appointed for one year; three members shall be appointed for two years; and three members shall be appointed for three years.~~ Board members in office on June 30, 2009, shall serve out the remainder of their respective terms and successors to these board seats shall be appointed in accordance with this Code section. Thereafter, all succeeding appointments shall be for three-year terms from the expiration of the previous term.

(c) Vacancies in office shall be filled by appointment by the Governor in the same manner as the appointment to the position on the board which becomes vacant, and the appointment shall be submitted to the Senate for confirmation at the next session of the General Assembly. An appointment to fill a vacancy other than by expiration of a term of office shall be for the balance of the unexpired term.

(d) Members of the board may be removed from office under the same conditions for removal from office of members of professional licensing boards provided in Code Section 43-1-17.

(e) There shall be a chairperson of the board elected by and from the membership of the board who shall be the presiding officer of the board.

(f) The members of the board shall receive a per diem allowance and expenses as shall be set and approved by the Office of Planning and Budget in conformance with rates and allowances set for members of other state boards.

~~31-5A-4.~~ 31-2-4.

(a)(1) The Department of Community Health is ~~created~~ re-created and established to perform the functions and assume the duties and powers exercised on June 30, ~~1999~~ 2009, by the ~~State Personnel Board solely with respect to the state health benefit plan, the Health Planning Agency, and the Department of Medical Assistance~~ Department of Community Health, the Division of Public Health of the Department of Human Resources, and the Office of Regulatory Services of the Department of Human Resources, unless specifically transferred to the Department of Human Services, and such department, division, and office shall be reconstituted as the Department of Community Health effective July 1, 2009. The department shall ~~also assume~~ retain powers and responsibility with respect to the expenditure of any funds appropriated to the department including, without being limited to, funds received by the state pursuant to the settlement of the lawsuit filed by the state against certain tobacco companies, *State of Georgia, et*

al. v. Philip Morris, Inc., et al., Civil Action #E-61692, V19/246 (Fulton County Superior Court, December 9, 1998).

~~(b) The divisions of the department shall be as follows:~~

~~(1) The Health Planning Agency, as it existed on June 30, 1999, is continued in existence on and after July 1, 1999, but shall thereafter be the Division of Health Planning within the department;~~

~~(2) The Department of Medical Assistance, as it existed on June 30, 1999, is continued in existence on and after July 1, 1999, but shall thereafter be the Division of Medical Assistance within the department;~~

~~(3) The Health Benefit Services Division of the State Merit System of Personnel Administration, as it existed on June 30, 1999, is continued in existence on and after July 1, 1999, but shall thereafter be the Division of Public Employee Health Benefits within the department; and~~

~~(4) Such other divisions as the board may establish within the department.~~

~~(c)(2) The executive director of the Health Planning Agency~~ Division of Public Health in office on June 30, ~~1999~~ 2009, ~~the commissioner of medical assistance in office on June 30, 1999;~~ and the director of the ~~Health Benefit Services Division of the State Merit System of Personnel Administration~~ Office of Regulatory Services in office on June 30, ~~1999~~ 2009, shall become directors of the respective ~~divisions~~ division or office which those predecessor agencies or ~~divisions~~ units have become on and after July 1, ~~1999~~ 2009, and until such time as the commissioner appoints other directors of such divisions or units.

~~(d)~~(b)(1) There is created in the department the Office of Women's Health. Attached to the office shall be an 11 member advisory council. The members of the advisory council shall be appointed by the Governor and shall be representative of major public and private agencies and organizations in the state and shall be experienced in or have demonstrated particular interest in women's health issues. Each member shall be appointed for two years and until his or her successor is appointed. The members shall be eligible to succeed themselves. The council shall elect its chairperson from among the councilmembers for a term of two years. The Governor may name an honorary chairperson of the council.

(2) The Office of Women's Health shall serve in an advisory capacity to the Governor, the General Assembly, the board, the department, and all other state agencies in matters relating to women's health. In particular, the office shall:

(A) Raise awareness of women's nonreproductive health issues;

(B) Inform and engage in prevention and education activities relating to women's nonreproductive health issues;

(C) Serve as a clearing-house for women's health information for purposes of planning and coordination;

(D) Issue reports of the office's activities and findings; and

(E) Develop and distribute a state comprehensive plan to address women's health issues.

~~(3) The Office of Women's Health shall have a full-time executive director appointed by the commissioner and shall be provided with staff personnel, office and meeting facilities, and other necessary items by the department.~~ The council shall meet upon the call of its chairperson, the board, or the commissioner.

~~(e)(c)~~ The board of regents Board of Regents of the University System of Georgia is authorized to contract with the department for health benefits for members, employees, and retirees of the board of regents and the dependents of such members, employees, and retirees and for the administration of such health benefits. The department is also authorized to contract with the board of regents for such purposes.

~~(f)(d)~~ In addition to its other powers, duties, and functions, the department:

(1) Shall be the lead agency in coordinating and purchasing health care benefit plans for state and public employees, dependents, and retirees and may also coordinate with the board of regents for the purchase and administration of such health care benefit plans for its members, employees, dependents, and retirees;

(2) Is authorized to plan and coordinate medical education and physician workforce issues;

~~(3) Is authorized to convene at least quarterly a state agency coordinating committee comprised of the commissioners, directors, chairpersons, or their designees, of the following agencies involved in health related activities: the Department of Human Resources, including the Division of Public Health, the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, and the Division of Aging Services thereof, the Department of Juvenile Justice, the Department of Corrections, the Insurance Department, the State Merit System of Personnel Administration, the State Board of Workers' Compensation, and the Governor's Office of Planning and Budget. The board of regents may also designate a person to serve on the coordinating committee. The committee will convene for the purposes of planning and coordinating health issues that have interagency considerations. The commissioner of the department will serve as the chairperson of the state agency coordinating committee and will report to the Governor the activities, findings, and recommendations of the committee;~~

~~(4)~~ Shall investigate the lack of availability of health insurance coverage and the issues associated with the uninsured population of this state. In particular, the department is authorized to investigate the feasibility of creating and administering insurance programs

for small businesses and political subdivisions of the state and to propose cost-effective solutions to reducing the numbers of uninsured in this state;

~~(5) Shall study and recommend any additional functions needed to carry out the purposes of the department, including the creation of a consumer medical advocate. Such recommendations shall be made to the Governor and General Assembly by December 31, 1999;~~

~~(6)~~(4) Is authorized to appoint a health care work force policy advisory committee to oversee and coordinate work force planning activities;

~~(7)~~(5) Is authorized to solicit and accept donations, contributions, and gifts and receive, hold, and use grants, devises, and bequests of real, personal, and mixed property on behalf of the state to enable the department to carry out its functions and purposes; and

~~(8)~~(6) Is authorized to award grants, as funds are available, to hospital authorities and hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1;

(7) Shall make provision for meeting the cost of hospital care of persons eligible for public assistance to the extent that federal matching funds are available for such expenditures for hospital care. To accomplish this purpose, the department is authorized to pay from funds appropriated for such purposes of the amount required under this paragraph into a trust fund account which shall be available for disbursement for the cost of hospital care of public assistance recipients. The commissioner, subject to the approval of the Office of Planning and Budget, on the basis of the funds appropriated in any year, shall estimate the scope of hospital care available to public assistance recipients and the approximate per capita cost of such care. Monthly payments into the trust fund for hospital care shall be made on behalf of each public assistance recipient and such payments shall be deemed encumbered for assistance payable. Ledger accounts reflecting payments into and out of the hospital care fund shall be maintained for each of the categories of public assistance established under Code Section 49-4-3. The balance of state funds in such trust fund for the payment of hospital costs in an amount not to exceed the amount of federal funds held in the trust fund by the department available for expenditure under this paragraph shall be deemed encumbered and held in trust for the payment of the costs of hospital care and shall be rebudgeted for this purpose on each quarterly budget required under the laws governing the expenditure of state funds. The state auditor shall audit the funds in the trust fund established under this paragraph in the same manner that any other funds disbursed by the department are audited; and

(8) Shall classify and license community living arrangements in accordance with the rules and regulations promulgated by the department for the licensing and enforcement of licensing requirements for persons whose services are financially supported, in whole or in part, by funds authorized through the Department of Behavioral Health and

Developmental Disabilities. To be eligible for licensing as a community living arrangement, the residence and services provided must be integrated within the local community. All community living arrangements licensed by the department shall be subject to the provisions of Code Sections 31-2-11 and 31-7-2.2. No person, business entity, corporation, or association, whether operated for profit or not for profit, may operate a community living arrangement without first obtaining a license or provisional license from the department. A license issued pursuant to this paragraph is not assignable or transferable. As used in this paragraph, the term 'community living arrangement' means any residence, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food, one or more personal services, supports, care, or treatment exclusively for two or more persons who are not related to the owner or administrator of the residence by blood or marriage.

~~31-5A-5.~~ 31-2-5.

~~(a) To assist in the transition of functions, until July 1, 2000, the State Merit System of Personnel Administration shall perform payroll, accounting, and purchasing services and other general support services on behalf of the Division of Public Employee Health Benefits.~~

~~(b)~~ All persons employed in a predecessor agency or unit on June 30, ~~1999~~ 2009, shall, on July 1, ~~1999~~ 2009, become employees of the department ~~within the division which such predecessor agency has become~~. Such employees shall be subject to the employment practices and policies of the department on and after July 1, ~~1999~~ 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, ~~1999~~ 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, ~~1999~~ 2009. Accrued annual and sick leave possessed by said employees on June 30, ~~1999~~ 2009, shall be retained by said employees as employees of the department.

~~(c)~~(b)(1) The department shall conform to federal standards for a merit system of personnel administration in any respects necessary for receiving federal grants, and the

board is authorized and empowered to effect such changes as may, from time to time, be necessary in order to comply with such standards.

(2) The department is authorized to employ, on a full-time or part-time basis, such medical, supervisory, institutional, and other professional personnel and such clerical and other employees as may be necessary to discharge the duties of the department under this chapter. The department is also authorized to contract for such professional services as may be necessary.

(3) Classified employees of the department under this chapter shall in all instances be employed and dismissed in accordance with rules of the State Personnel Board.

(4) All personnel of the department are authorized to be members of the Employees' Retirement System of Georgia as provided in Chapter 2 of Title 47. All rights, credits, and funds in that retirement system which are possessed by state personnel transferred by provisions of this chapter to the department, or otherwise had by persons at the time of employment with the department, are continued and preserved, it being the intention of the General Assembly that such persons shall not lose any rights, credits, or funds to which they may be entitled prior to becoming employees of the department.

~~(d)~~(c) The department shall succeed to all rules, regulations, policies, procedures, and administrative orders of the predecessor ~~agencies~~ agency or unit which were in effect on June 30, ~~1999~~ 2009, or scheduled to go into effect on or after July 1, ~~1999~~ 2009, and which relate to the functions transferred to the department by this chapter. Such rules, regulations, policies, procedures, and administrative orders shall remain in effect until amended, repealed, superseded, or nullified by proper authority or as otherwise provided by law. Rules of the department shall be adopted, promulgated, and implemented as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that only ~~the Division of Health Planning~~ rules promulgated pursuant to Chapter 6 of this title shall be subject to the provisions of Code Section 31-6-21.1.

~~(e)~~(d) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, ~~1999~~ 2009, by any predecessor agency or unit and which pertain to the functions transferred to the department by this chapter shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the department. In all such instances, the Department of Community Health shall be substituted for the predecessor agency or unit, and the Department of Community Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(e) On July 1, 2009, the department shall receive custody of the state owned real property in the custody of the predecessor agency or unit on June 30, 2009, and which pertains to the functions transferred to the department by this chapter.

~~(f)(1) The Governor is authorized to transfer to the Division of Public Employee Health Benefits of the department, by executive order, employees of the State Merit System of Personnel Administration who were performing functions for the Health Benefit Services Division of that system on June 30, 1999, whether or not they were also performing functions other than functions for that division. Employees so transferred shall become employees of the Division of Public Employee Health Benefits of the department.~~

~~(2) The commissioner is authorized to transfer department employees from one division to another division within the department.~~

~~31-5A-6.~~ 31-2-6.

(a) There is created the position of commissioner of community health. The commissioner shall be the chief administrative officer of the department and shall be subject to appointment and removal by the Governor. Subject to the general policy established by the board, the commissioner shall supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department.

(b) There shall be created in the department such divisions as may be found necessary for its effective operation. Except for the Division of Public Health, the commissioner shall have the power to allocate and reallocate functions among the divisions within the department.

~~31-2-1.~~

~~The Department of Human Resources is created and established to safeguard and promote the health of the people of this state and is empowered to employ all legal means appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the department is empowered to:~~

~~(1) Provide epidemiological investigations and laboratory facilities and services in the detection and control of disease, disorders, and disabilities and to provide research, conduct investigations, and disseminate information concerning reduction in the incidence and proper control of disease, disorders, and disabilities;~~

~~(2) Forestall and correct physical, chemical, and biological conditions that, if left to run their course, could be injurious to health;~~

~~(3) Regulate and require the use of sanitary facilities at construction sites and places of public assembly and to regulate persons, firms, and corporations engaged in the rental and service of portable chemical toilets;~~

~~(4) Isolate and treat persons afflicted with a communicable disease who are either unable or unwilling to observe the department's rules and regulations for the suppression of such disease and to establish, to that end, complete or modified quarantine, surveillance, or isolation of persons and animals exposed to a disease communicable to man;~~

~~(5) Manufacture drugs and biologicals which are not readily available on the market and not manufactured for commercial purposes, when expressly authorized and shown on the minutes of the department; to procure and distribute drugs and biologicals and purchase services from clinics, laboratories, hospitals, and other health facilities and, when authorized by law, to acquire and operate such facilities;~~

~~(6) Cooperate with agencies and departments of the federal government and of the state by supplying consultant services in medical and hospital programs and in the health aspects of civil defense;~~

~~(7) Detect and relieve physical defects and deformities and provide treatment for mental and emotional disorders and infirmities;~~

~~(8) Promote the prevention, early detection, and control of problems affecting the dental health of the citizens of Georgia;~~

~~(9) Contract with county boards of health to assist in the performance of services incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies of more than local peril, to employ whatever means may be at its disposal to overcome such emergencies;~~

~~(10) Contract and execute releases for assistance in the performance of its functions and the exercise of its powers and to supply services which are within its purview to perform;~~

~~(11) Enter into or upon public or private property at reasonable times for the purpose of inspecting same to determine the presence of disease and conditions deleterious to health or to determine compliance with health laws and rules, regulations, and standards thereunder;~~

~~(12) Promulgate and enforce rules and regulations for the licensing of medical facilities wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are to be performed; and, further, to disseminate and distribute educational information and medical supplies and treatment in order to prevent unwanted pregnancy; and~~

~~(13) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' a schedule of fees for laboratory services provided; schedules to be determined in a manner so as to help defray the costs incurred by the department, but in no event to exceed such costs, both direct and indirect, in providing such laboratory services, provided no person shall be denied services on the basis of his inability to pay. All fees paid thereunder shall be paid into the general funds of the State~~

of Georgia. The individual who requests services authorized in this Code section shall pay the fee. As used in this Code section, the term 'individual' means a natural person.

~~31-2-2.~~ 31-2-7.

The department is designated and empowered as the agency of this state to apply for, receive, and administer grants and donations for health purposes from the federal government and from any of its departments, agencies, and instrumentalities; from appropriations of the state; and from any other sources in conformity with law, including but not limited to Code Section 49-4-152. The department shall have the authority to prescribe the purposes for which such funds may be used in order to:

- (1) Provide, extend, and improve maternal and child health services;
- (2) Locate children already ~~crippled~~ disabled or suffering from conditions leading to ~~crippling a disability~~ and provide for such children medical, surgical, corrective, and other services and to provide for facilities for diagnosis, hospitalization, and aftercare;
- (3) Advance the prevention and control of cancer and of venereal, tubercular, and other diseases;
- (4) Forestall and correct conditions that, if left to run their course, could be injurious to health;
- (5) Conduct programs which lie within the scope and the power of the department relating to industrial hygiene, control of ionizing radiation, occupational health, water quality, water pollution control, and planning and development of water resources;
- (6) Administer grants-in-aid to assist in the construction of publicly owned and operated general and special medical facilities;
- (7) Conduct programs:
 - (A) Relating to chronic illness;
 - (B) Relating to the dental and oral health of the people of this state which are appropriate to the purpose of the department; and
 - (C) Relating to the ~~mental and~~ physical health of the people of this state which are appropriate to the purpose of the department; and
- (8) Develop the health aspects of ~~civil defense~~ emergency preparedness and emergency response.

When a plan is required to be approved by any department, agency, or instrumentality of the federal government as condition precedent to the making of grants for health purposes, the department, as agent of this state, is directed to formulate, submit, and secure approval of that plan and thereafter, upon its approval and the receipt of funds payable thereunder, to carry the plan into effect in accordance with its terms, applying thereto the funds so received as well as other applicable amounts from whatever source.

~~31-2-3.~~ 31-2-8.

The department, from time to time, shall make or cause to be made studies and surveys to determine the quality, scope, and reach of its programs.

~~31-2-4.~~ 31-2-9.

(a) The department is authorized to adopt and promulgate rules and regulations to effect prevention, abatement, and correction of situations and conditions which, if not promptly checked, would militate against the health of the people of this state. Such rules and regulations shall be adapted to the purposes intended, within the purview of the powers and duties imposed upon the department by this chapter, and supersede conflicting rules, regulations, and orders adopted pursuant to the authority of Chapter 3 of this title.

(b) The department upon application or petition may grant variances and waivers to specific rules and regulations which establish standards for facilities or entities regulated by the department as follows:

(1) The department may authorize departure from the literal requirements of a rule or regulation by granting a variance upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application would cause undue hardship. The applicant or petitioner additionally must show that adequate standards affording protection of health, safety, and care exist and will be met in lieu of the exact requirements of the rule or regulation in question;

(2) The department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection of health, safety, and care;

(3) The department may grant waivers and variances to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery;

(4) Waivers or variances which affect an entire class of facilities may only be approved by the Board of ~~Human Resources~~ Community Health and shall be for a time certain, as determined by the board. A notice of the proposed variance or waiver affecting an entire class of facilities shall be made in accordance with the requirements for notice of rule making in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; or

(5) Variances or waivers which affect only one facility in a class may be approved or denied by the department and shall be for a time certain, as determined by the

department. The department shall maintain a record of such action and shall make this information available to the board and all other persons who request it.

This subsection shall not apply to rules adopted by the department pursuant to Code Section 31-6-21.1.

(c) The department may exempt classes of facilities from regulation when, in the department's judgment, regulation would not permit the purpose intended or the class of facilities is subject to similar requirements under other rules and regulations. Such exemptions shall be provided in rules and regulations promulgated by the board.

~~31-2-5.~~ 31-2-10.

Actions at law and in equity against the department, the board, or any of its members predicated upon omissions or acts done in their official capacity or under color thereof shall be brought in the appropriate county; provided, however, that nothing in this Code section shall be construed as waiving the immunity of the state to be sued without its consent.

~~31-2-6.~~ 31-2-11.

(a) This Code section shall be applicable to any agency, center, facility, institution, community living arrangement, drug abuse treatment and education program, or entity subject to regulation by the department under Chapters 7, 13, 22, 23, and 44 of this title; Chapter 5 of Title 26; paragraph ~~(16)~~ (8) of subsection ~~(b)~~ (d) and ~~subsection (c)~~ of Code Section ~~37-1-20~~ 31-2-4; and ~~Chapter 5~~ and Article 7 of Chapter 6 of Title 49. For purposes of this Code section, the term 'license' shall be used to refer to any license, permit, registration, or commission issued by the department pursuant to the provisions of the law cited in this subsection.

(b) The department shall have the authority to take any of the actions enumerated in subsection (c) of this Code section upon a finding that the applicant or licensee has:

(1) Knowingly made any false statement of material information in connection with the application for a license, or in statements made or on documents submitted to the department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the agency, facility, institution, or entity;

(2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the agency, facility, institution, or entity;

(3) Failed to comply with the licensing requirements of this state; or

(4) Failed to comply with any ~~provisions~~ provision of this Code section.

(c) When the department finds that any applicant or licensee has violated any ~~provisions~~ provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders

related to the initial or continued licensing of the agency, facility, institution, or entity, the department, subject to notice and opportunity for hearing, may take any of the following actions:

- (1) Refuse to grant a license; provided, however, that the department may refuse to grant a license without holding a hearing prior to taking such action;
- (2) Administer a public reprimand;
- (3) Suspend any license, ~~permit, registration, or commission~~ for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;
- (4) Prohibit any applicant or licensee from allowing a person who previously was involved in the management or control, as defined by rule, of any agency, facility, institution, or entity which has had its license or application revoked or denied within the past 12 months to be involved in the management or control of such agency, facility, institution, or entity;
- (5) Revoke any license;
- (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of any agency, facility, institution, or entity, except that no fine may be imposed against any nursing facility, nursing home, or intermediate care facility which is subject to intermediate sanctions under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as amended, whether or not those sanctions are actually imposed; or
- (7) Limit or restrict any license as the department deems necessary for the protection of the public, including, but not limited to, restricting some or all services of or admissions into an agency, facility, institution, or entity for a time certain.

In taking any of the actions enumerated in this subsection, the department shall consider the seriousness of the violation, including the circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public.

(d)(1) With respect to any facility classified as a nursing facility, nursing home, or intermediate care home, the department may not take an action to fine or restrict the license of any such facility based on the same act, occurrence, or omission for which:

- (A) The facility has received an intermediate sanction under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as amended, or 42 U.S.C. Section 1395i-3(h)(2)(B); or
- (B) Such facility has been served formal notice of intent to take such a sanction which the ~~Department of Community Health~~ department based on administrative review or any other appropriate body based on administrative or judicial review determines not to impose; provided, however, that nothing in this subsection shall prohibit the

department from utilizing the provisions authorized under subsection (f) of this Code section.

(2) When any civil monetary penalty is recommended and imposed against such facility, and the department does not resurvey the facility within 48 hours after the date by which all items on a plan of correction submitted by the facility are to be completed, the accrual of any resulting civil monetary penalties shall be suspended until the facility is resurveyed by the department.

(3) If the department resurveys such facility beyond 48 hours after the final date for completion of all items on the plan of correction submitted by the facility, and the facility is not in substantial compliance with the applicable standards, any civil monetary penalties imposed shall relate back to the date on which such penalties were suspended.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, nothing contained in said paragraphs ~~(2) and (3) of this subsection~~ shall be construed as requiring the state survey agency to act in violation of applicable federal law, regulations, and guidelines.

(e) The department may deny a license or otherwise restrict a license for any applicant who has had a license denied, revoked, or suspended within one year of the date of an application or who has transferred ownership or governing authority of an agency, facility, institution, or entity subject to regulation by the department within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license.

(f) With regard to any contested case instituted by the department pursuant to this Code section or other provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action, the department may, in its discretion, dispose of the action so instituted by settlement. In such cases, all parties, successors, and assigns to any settlement agreement shall be bound by the terms specified therein, and violation thereof by any applicant or licensee shall constitute grounds for any action enumerated in subsection (c) of this Code section.

(g) The department shall have the authority to make public or private investigations or examinations inside or outside of this state to determine whether the provisions of this Code section or any other law, rule, regulation, or formal order relating to the licensing of any agency, facility, institution, or entity has been violated. Such investigations may be initiated at any time, in the discretion of the department, and may continue during the pendency of any action initiated by the department pursuant to subsection (c) of this Code section.

(h) For the purpose of conducting any investigation, inspection, or survey, the department shall have the authority to require the production of any books, records, papers, or other

information related to the initial or continued licensing of any agency, facility, institution, or entity.

(i) Pursuant to the investigation, inspection, and enforcement powers given to the department by this Code section and other applicable laws, the department may assess against an agency, facility, institution, or entity reasonable and necessary expenses incurred by the department pursuant to any administrative or legal action required by the failure of the agency, facility, institution, or entity to fully comply with the provisions of any law, rule, regulation, or formal order related to the initial or continued licensing. Assessments shall not include attorney's fees and expenses of litigation, shall not exceed other actual expenses, and shall only be assessed if such investigations, inspection, or enforcement actions result in adverse findings, as finally determined by the department, pursuant to administrative or legal action.

(j) For any action taken or any proceeding held under this Code section or under color of law, except for gross negligence or willful or wanton misconduct, the department, when acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

(k) In an administrative or legal proceeding under this Code section, a person or entity claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

(l) This Code section and all actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(m) The provisions of this Code section shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Code section limits such grounds or actions, those other provisions shall apply.

(n) The department is authorized to promulgate rules and regulations to implement the provisions of this Code section.

~~31-2-7.~~ 31-2-12.

(a) As used in this Code section, the term:

(1) 'Chamber system' means a system of chambers with each chamber being a molded polyolefin plastic, arch shaped, hollow structure with an exposed bottom area and solid top and louvered sidewall for infiltration of effluent into adjoining bottom and sidewall soil areas. Chambers may be of different sizes and configurations to obtain desired surface areas.

(2) 'Conventional system' means a system traditionally used composed of perforated pipe surrounded by gravel or stone masking for the infiltration of effluent into adjoining bottom and side soil areas.

(3) 'On-site sewage management system' means a sewage management system other than a public or community sewage treatment system serving one or more buildings, mobile homes, recreational vehicles, residences, or other facilities designed or used for human occupancy or congregation. Such term shall include, without limitation, conventional and chamber septic tank systems, privies, and experimental and alternative on-site sewage management systems which are designed to be physically incapable of a surface discharge of effluent that may be approved by the department.

(4) 'Prior approved system' means only a chamber system or conventional system or component of such system which is designed to be physically incapable of a surface discharge of effluent and which was properly approved pursuant to subparagraph (a)(2)(B) of this Code section, as such Code section became law on April 19, 1994, for use according to manufacturers' recommendations, prior to April 14, 1997.

(5) 'Unsatisfactory service' means documented substandard performance as compared to other approved systems or components.

(b) ~~The Department of Human Resources~~ department shall have the authority as it deems necessary and proper to adopt state-wide regulations for on-site; sewage management systems, including but not limited to experimental and alternative systems. The department is authorized to require that any such on-site sewage management system be examined and approved prior to allowing the use of such system in the state; provided, however, that any prior approved system shall continue to be approved for installation in every county of the state pursuant to the manufacturer's recommendations, including sizing of no less than 50 percent of trench length of a conventional system designed for equal flows in similar soil conditions. Upon written request of one-half or more of the health districts in the state, the department is authorized to require the reexamination of any such system or component thereof, provided that documentation is submitted indicating unsatisfactory service of such system or component thereof. Before any such examination or reexamination, the department may require the person, persons, or organization manufacturing or marketing the system to reimburse the department or its agent for the reasonable expenses of such examination.

(c)(1) This subsection shall not be construed to prohibit the governing authority of any county or municipality in the state from adopting and enforcing codes at the local level; provided, however, that no county, municipality, or state agency may require any certified septic tank installer or certified septic tank pumper who has executed and deposited a bond as authorized in paragraph (2) of this subsection to give or furnish or

execute any code compliance bond or similar bond for the purpose of ensuring that all construction, installation, or modifications are made or completed in compliance with the county or municipal ordinances or building and construction codes.

(2) In order to protect the public from damages arising from any work by a certified septic tank installer or certified septic tank pumper, which work fails to comply with any state construction codes or with the ordinances or building and construction codes adopted by any county or municipal corporation, any such certified septic tank installer or certified septic tank pumper may execute and deposit with the judge of the probate court in the county of his or her principal place of business a bond in the sum of \$10,000.00. Such bond shall be a cash bond of \$10,000.00 or executed by a surety authorized and qualified to write surety bonds in the State of Georgia and shall be approved by the local county or municipal health department. Such bond shall be conditioned upon all work done or supervised by such certificate holder complying with the provisions of any state construction codes or any ordinances or building and construction codes of any county or municipal corporation wherein the work is performed. Action on such bond may be brought against the principal and surety thereon in the name of and for the benefit of any person who suffers damages as a consequence of said certificate holder's work not conforming to the requirements of any ordinances or building and construction codes; provided, however, that the aggregate liability of the surety to all persons so damaged shall in no event exceed the sum of such bond.

(3) In any case where a bond is required under this subsection, the certified septic tank installer or certified septic tank pumper shall file a copy of the bond with the county or municipal health department in the political subdivision wherein the work is being performed.

(4) The provisions of this subsection shall not apply to or affect any bonding requirements involving contracts for public works as provided in Chapter 10 of Title 13.

(d) This Code section does not restrict the work of a plumber licensed by the State Construction Industry Licensing Board to access any on-site sewage management system for the purpose of servicing or repairing any plumbing system or connection to the on-site sewage management system.

~~31-2-8.~~ 31-2-13.

Until July 1, 2012, the department shall provide by rule or regulation for the regulation of any land disposal site that receives septic tank waste from only one septic tank pumping and hauling business and which as of June 30, 2007, operated under a valid permit for such activity as issued by the department (previously known as the Department of Human Resources for these purposes) under this Code section. No new permit shall be issued by

the department under this Code section for such type of site on or after July 1, 2007, but instead any new permit issued for such type of site on or after such date shall be issued by the Department of Natural Resources under Code Section 12-8-41. This Code section shall stand repealed on July 1, 2012.

~~31-2-9.~~

~~(a) The General Assembly makes the following findings:~~

~~(1) Every year in Georgia, approximately 850 people die from suicide;~~

~~(2) More Georgians die from suicide than from homicide;~~

~~(3) More teenagers and young adults die from suicide than from cancer, heart disease, AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease combined;~~

~~(4) Many who attempt suicide do not seek professional help after the attempt;~~

~~(5) In Georgia, three out of four suicide deaths involve a firearm;~~

~~(6) Factors such as aging, drug and alcohol abuse, unemployment, mental illness, isolation, and bullying in school contribute to causes of suicide; and~~

~~(7) Education is necessary to inform the public about the causes of suicide and the early intervention programs that are available.~~

~~(b) There is created the Suicide Prevention Program to be managed by the injury prevention section of the Division of Public Health of the Department of Human Resources.~~

~~(c) The injury prevention section, in implementing the Suicide Prevention Program, shall:~~

~~(1) Establish a link between state agencies and offices, including but not limited to the department's Division of Aging Services, Division of Family and Children Services, and Division of Mental Health, Developmental Disabilities, and Addictive Diseases, local government agencies, health care providers, hospitals, nursing homes, and jails to collect data on suicide deaths and attempted suicides;~~

~~(2) Work with public officials to improve firearm safety;~~

~~(3) Improve education for nurses, judges, physician assistants, social workers, psychologists, and other counselors with regard to suicide education and prevention and expand educational resources for professionals working with those persons most at risk of suicide;~~

~~(4) Provide training and minimal screening tools for clergy, teachers and other educational staff, and correctional workers on how to identify and respond to persons at risk of suicide;~~

~~(5) Provide educational programs for family members of persons at an elevated risk of suicide;~~

~~(6) Develop standardized protocols to be used by the Department of Human Resources in reviewing suicide death scene investigations;~~
~~(7) Work to increase the number of follow-back studies of suicides;~~
~~(8) Work to increase the number of hospitals that code for external cause of injuries;~~
~~(9) Implement a state-wide reporting system for reporting suicides;~~
~~(10) Support pilot projects to link and analyze information on self-destructive behavior from various, distinct data systems; and~~
~~(11) Perform such other tasks as deemed appropriate to further suicide education and prevention in Georgia.~~
~~(d) The Suicide Prevention Program shall be provided staff to consist of a full-time coordinator, half-time data analyst/epidemiologist, and administrative support, all subject to available funding.~~

31-2-14.

(a) As used in this Code section, the term:

(1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of whether an appeal of the conviction has been sought.

(2) 'Crime' means commission of the following offenses:

(A) A violation of Code Section 16-5-1, relating to murder and felony murder;

(B) A violation of Code Section 16-5-21, relating to aggravated assault;

(C) A violation of Code Section 16-5-24, relating to aggravated battery;

(D) A violation of Code Section 16-5-70, relating to cruelty to children;

(E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of age or older;

(F) A violation of Code Section 16-6-1, relating to rape;

(G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

(H) A violation of Code Section 16-6-4, relating to child molestation;

(I) A violation of Code Section 16-6-5, relating to enticing a child for indecent purposes;

(J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in custody, detained persons, or patients in hospitals or other institutions;

(K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;

(L) A violation of Code Section 16-8-41, relating to armed robbery;

(M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of a disabled adult or elder person; or

775 (N) Any other offense committed in another jurisdiction that, if committed in this state,
776 would be deemed to be a crime listed in this paragraph without regard to its designation
777 elsewhere.

778 (3) 'Criminal record' means any of the following:

779 (A) Conviction of a crime;

780 (B) Arrest, charge, and sentencing for a crime where:

781 (i) A plea of nolo contendere was entered to the charge;

782 (ii) First offender treatment without adjudication of guilt pursuant to the charge was
783 granted; or

784 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;
785 or

786 (C) Arrest and being charged for a crime if the charge is pending, unless the time for
787 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

788 (4) 'Facility' means a:

789 (A) Personal care home required to be licensed or permitted under Code Section
790 31-7-12;

791 (B) Private home care provider required to be licensed under Article 13 of Chapter 7
792 of Title 31; or

793 (C) Community living arrangement subject to licensure under paragraph (8) of
794 subsection (d) of Code Section 31-2-4.

795 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of
796 Chapter 3 of Title 35.

797 (6) 'GCIC information' means criminal history record information as defined in Code
798 Section 35-3-30.

799 (7) 'License' means the document issued by the department to authorize the facility to
800 operate.

801 (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,
802 or association with 10 percent or greater ownership interest in a facility providing care
803 to persons under the license of the facility in this state and who:

804 (A) Purports to or exercises authority of the owner in a facility;

805 (B) Applies to operate or operates a facility;

806 (C) Maintains an office on the premises of a facility;

807 (D) Resides at a facility;

808 (E) Has direct access to persons receiving care at a facility;

809 (F) Provides direct personal supervision of facility personnel by being immediately
810 available to provide assistance and direction during the time such facility services are
811 being provided; or

812 (G) Enters into a contract to acquire ownership of a facility.

813 (9) 'Records check application' means fingerprints in such form and of such quality as
814 prescribed by the Georgia Crime Information Center and under standards adopted by the
815 Federal Bureau of Investigation and a records search fee to be established by the
816 department by rule and regulation, payable in such form as the department may direct to
817 cover the cost of obtaining criminal background information pursuant to this Code
818 section.

819 (b) An owner with a criminal record shall not operate or hold a license to operate a facility,
820 and the department shall revoke the license of any owner operating a facility or refuse to
821 issue a license to any owner operating a facility if it determines that such owner has a
822 criminal record; provided, however, that an owner who holds a license to operate a facility
823 on or before June 30, 2007, shall not have his or her license revoked prior to a hearing
824 being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia
825 Administrative Procedure Act.'

826 (c)(1) Prior to approving any license for a new facility and periodically as established by
827 the department by rule and regulation, the department shall require an owner to submit
828 a records check application. The department shall establish a uniform method of
829 obtaining an owner's records check application.

830 (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,
831 the department shall transmit to the GCIC the fingerprints and records search fee from
832 each fingerprint records check application in accordance with Code Section 35-3-35.
833 Upon receipt thereof, the GCIC shall promptly transmit the fingerprints to the Federal
834 Bureau of Investigation for a search of bureau records and an appropriate report and
835 shall promptly conduct a search of its records and records to which it has access.
836 Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the
837 GCIC shall notify the department in writing of any criminal record or if there is no such
838 finding. After a search of Federal Bureau of Investigation records and fingerprints and
839 upon receipt of the bureau's report, the department shall make a determination about an
840 owner's criminal record and shall notify the owner in writing as to the department's
841 determination as to whether the owner has or does not have a criminal record.

842 (B) The department may either perform criminal background checks under agreement
843 with the GCIC or contract with the GCIC and appropriate law enforcement agencies
844 which have access to GCIC and Federal Bureau of Investigation information to have
845 those agencies perform for the department criminal background checks for owners. The
846 department or the appropriate law enforcement agencies may charge reasonable fees
847 for performing criminal background checks.

(3)(A) The department's determination regarding an owner's criminal record, or any action by the department revoking or refusing to grant a license based on such determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the department.

(B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b) of this Code section, the hearing officer shall consider in mitigation the length of time since the crime was committed, the absence of additional criminal charges, the circumstances surrounding the commission of the crime, other indicia of rehabilitation, the facility's history of compliance with the regulations, and the owner's involvement with the licensed facility in arriving at a decision as to whether the criminal record requires the denial or revocation of the license to operate the facility. Where a hearing is required, at least 30 days prior to such hearing, the hearing officer shall notify the office of the prosecuting attorney who initiated the prosecution of the crime in question in order to allow the prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license as contemplated within this Code section. If objections are made, the hearing officer shall take such objections into consideration in considering the case.

(4) Neither the GCIC, the department, any law enforcement agency, nor the employees of any such entities shall be responsible for the accuracy of information nor have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information or determination based thereon pursuant to this Code section.

(d) All information received from the Federal Bureau of Investigation or the GCIC shall be for the exclusive purpose of approving or denying the granting of a license to a new facility or the revision of a license of an existing facility when a new owner is proposed and shall not be released or otherwise disclosed to any other person or agency. All such information collected by the department shall be maintained by the department pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable. Penalties for the unauthorized release or disclosure of any such information shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable.

(e) The requirements of this Code section are supplemental to any requirements for a license imposed by Article 3 of Chapter 5 of Title 49 or Article 11 of Chapter 7 of this title.

(f) The department shall promulgate written rules and regulations to implement the provisions of this Code section.

~~31-5A-7.~~ 31-2-15.

Performance and outcome data and pricing data for selected medical conditions, surgeries, and procedures in hospitals, ambulatory surgery centers, nursing homes, and rehabilitation centers in Georgia shall be reported to the Department of Community Health on a regular basis. The department shall provide for the establishment of a website for the purpose of providing consumers information on the cost and quality of health care in Georgia to include but not be limited to cost comparison information on certain prescription drugs at different pharmacies in Georgia, hospitals, ambulatory surgery centers, nursing homes, and rehabilitation centers and facilities in Georgia.

~~31-5A-8.~~ 31-2-16.

(a) As used in this Code section, the term:

(1) 'Biopharmaceutical' means the application of biotechnology to the development of pharmaceutical products that improve human health.

(2) 'Biotechnology' means any technological application that uses biological systems, living organisms, or derivatives thereof to make or modify products or processes for specific use.

(3) 'Georgia biotechnology, biopharmaceutical, or pharmaceutical company' means a biotechnology, biopharmaceutical, or pharmaceutical company, or a corporate division of such a company:

(A) The principal activity of which is research or development, manufacturing, or sales of health care products in this state; and

(B)(i) That had a total economic impact in this state of not less than \$60 million during the most recent taxable year;

(ii) That has total capital investment in this state of not less than \$100 million; and

(iii) That employs at least 200 Georgia ~~citizens~~ residents.

Such term shall not mean a warehouse used to store health care products.

(4) 'Pharmaceutical' means of or pertaining to the knowledge or art of pharmacy or to the art of preparing medicines according to the rules or formulas of pharmacy.

(5) 'Research and development' means experimental or laboratory activity for the ultimate purpose of developing new products, improving existing products, developing new uses for existing products, or developing or improving methods for producing products.

(6) 'Total economic impact' means the sum of total employee payroll, investment in external research and development, the value of prescription drug samples provided to

physicians, and the value of prescription drugs donated to ~~low-income~~ low-income individuals through patient assistance programs.

(b) The Department of Community Health shall expedite the review of any prescription drug or other health care product having an approved indication from the federal Food and Drug Administration for use with humans and that is produced by a Georgia biotechnology, biopharmaceutical, or pharmaceutical company for any health care coverage provided under the state health benefit plan under Article 1 of Chapter 18 of Title 45, the medical assistance program under Article 7 of Chapter 4 of Title 49, the PeachCare for Kids program under Article 13 of Chapter 5 of Title 49, or any other health benefit plan or policy administered by or on behalf of the state. Such review shall take place as soon as practicable following the date that such drug or health care product becomes available for public consumption. This subsection shall apply to all contracts entered into or renewed by the Department of Community Health on or after July 1, 2008.

(c) In complying with the provisions of this Code section, the department shall consider the nexus of a biotechnology, biopharmaceutical, or pharmaceutical company in relation to the state along with the financial impact on the state, the quality of the product, and other relevant factors.

31-2-17.

The commissioner is authorized to appoint a diabetes coordinator within the Division of Public Health to coordinate with other state departments and agencies to ensure that all programs that impact the prevention and treatment of diabetes are coordinated, that duplication of efforts is minimized, and that the impact of such programs is maximized in an attempt to reduce the health consequences and complications of diabetes in Georgia. The Division of Public Health shall serve as the central repository for this state's departments and agencies for data related to the prevention and treatment of diabetes.

31-2-18.

(a) The Division of Public Health shall have a director who shall be appointed by the Governor and serve at the pleasure of the Governor. The director shall report to the Office of the Governor and to the commissioner. In addition to other authority and duties granted in this title, the director shall:

(1) Provide a written report of expenditures made for public health purposes in the prior fiscal year to the Governor, the Speaker of the House of Representatives, and the Lieutenant Governor no later than December 1 of each year beginning December 1, 2010; and

(2) Serve as the chief liaison to county boards of health through their directors on matters related to the operations and programmatic responsibilities of such county boards of health; provided, however, the director may designate a person from within the division to serve as such chief liaison.

(b) The director shall be authorized to convene one or more panels of experts to address various public health issues and may consult with experts on epidemiological and emergency preparedness issues.

31-2-19.

(a) There is created the Advisory Council for Public Health to be composed of nine members appointed by the Governor who shall serve at the pleasure of the Governor. Employees of the department shall not serve on the council. Members shall serve three-year terms, provided that of the first members appointed, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. Members may succeed themselves. A position on the council shall be deemed vacant upon the expiration of a member's term, and vacancies shall be filled by similar appointment for unexpired terms.

(b) The council shall meet at least quarterly.

(c) The council shall advise the Division of Public Health on all matters related to the division. Resolutions passed by a majority of the council shall be considered by the Director of Public Health and the commissioner and may be considered by the board.

31-2-20.

(a) Effective July 1, 2010, there is created the Public Health Commission to be composed of nine members as follows: two members shall be appointed by the Speaker of the House of Representatives, two members shall be appointed by the Lieutenant Governor, and five members shall be appointed by the Governor. The purpose of the commission shall be to examine whether the interests of this state are best served with the Division of Public Health being a part of the Department of Community Health, an attached agency pursuant to Code Section 50-4-3, an independent agency, or as part of another organizational structure to be determined by the commission. The commission shall have the authority to contract with third parties subject to appropriations by the General Assembly. The commission shall make its recommendations to the Governor, the Speaker of the House of Representatives, and the Lieutenant Governor by December 1, 2010. The commission shall stand abolished on December 31, 2010.

(b) This Code section shall stand repealed on December 31, 2010.

SECTION 1-2.

Said title is further amended by revising Code Section 31-1-1, relating to definitions relative to health generally, as follows:

"31-1-1.

Except as specifically provided otherwise, as used in this title, the term:

(1) 'Board' means the Board of ~~Human Resources~~ Community Health.

(2) 'Commissioner' means the commissioner of ~~human resources~~ community health.

(3) 'Department' means the Department of ~~Human Resources~~ Community Health."

SECTION 1-3.

Said title is further amended by adding a new Code section to read as follows:

"31-1-10.

(a) The position of State Health Officer is created. The commissioner of community health or the director of the Division of Public Health of the Department of Community Health shall be the State Health Officer, as designated by the Governor.

(b) The State Health Officer shall perform such health emergency preparedness and response duties as assigned by the Governor."

SECTION 1-4.

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "Department of Human Resources" wherever it occurs with "Department of Community Health":

(1) Code Section 4-4-69, relating to regulation of manufacture and use of disease vectors in livestock;

(2) Code Section 4-10-10, relating to the joint regulation of the sale or transportation of exotic or pet birds;

(3) Code Section 10-1-393, relating to unfair or deceptive practices in consumer transactions which are deemed unlawful;

(4) Code Section 12-2-8, relating to promulgation of minimum standards and procedures for protection of natural resources, environment, and vital areas of the state;

(5) Code Section 12-3-9, relating to adoption and promulgation by the Board of Natural Resources of rules and regulations regarding parks, historic sites, and recreational areas;

(6) Code Section 12-5-175, relating to fluoridation of public water systems;

(7) Code Section 12-8-1, relating to notice of denial of individual sewage disposal permits;

(8) Code Section 15-21-142, relating to the establishment of the Brain and Spinal Injury Trust Fund Commission;

- 1022 (9) Code Section 16-6-13.1, relating to testing for sexually transmitted diseases;
1023 (10) Code Section 16-12-141, relating to when abortion is legal;
1024 (11) Code Section 17-10-15, relating to AIDS transmitting crimes;
1025 (12) Code Section 19-3-41, relating to preparation by the Department of Human
1026 Resources of a marriage manual on family planning and other material;
1027 (13) Code Section 20-2-142, relating to prescribed courses in elementary and secondary
1028 schools on alcohol, tobacco, and drug use;
1029 (14) Code Section 20-2-143, relating to sex education and AIDS prevention instruction
1030 in elementary and secondary schools;
1031 (15) Code Section 20-2-144, relating to mandatory instruction in elementary and
1032 secondary schools concerning alcohol and drug use;
1033 (16) Code Section 20-2-770, relating to rules and regulations for nutritional screening
1034 and eye, ear, and dental examinations of students;
1035 (17) Code Section 20-2-771, relating to immunization of students in elementary and
1036 secondary education;
1037 (18) Code Section 20-2-772, relating to rules and regulations for screening of students
1038 for scoliosis;
1039 (19) Code Section 24-9-40, relating to when medical information may be released by a
1040 physician, hospital, health care facility, or pharmacist;
1041 (20) Code Section 24-9-47, relating to disclosure of AIDS confidential information;
1042 (21) Code Section 25-3-6, relating to the effect of certain laws relating to local fire
1043 departments on the powers and duties of other officials and departments;
1044 (22) Code Section 26-2-371, relating to permits required for food service establishments;
1045 (23) Code Section 26-2-372, relating to the issuance of permits for food service
1046 establishments;
1047 (24) Code Section 26-2-373, relating to promulgation of rules, regulations, and standards
1048 by the Department of Human Resources and county boards of health for food service
1049 establishments;
1050 (25) Code Section 26-2-374, relating to contents and posting of notices relating to
1051 assistance to persons choking;
1052 (26) Code Section 26-2-375, relating to enforcement of laws regarding the regulation of
1053 food service establishments;
1054 (27) Code Section 26-2-376, relating to review of final order or determination by
1055 Department of Human Resources regarding regulation of a food service establishment;
1056 (28) Code Section 26-2-377, relating to penalties for violation of laws regarding the
1057 regulation of food service establishments;

- 1058 (29) Code Section 26-3-18, relating to assistance in enforcement from Department of
1059 Agriculture or Department of Human Resources with respect to standards, labeling, and
1060 adulteration of drugs and cosmetics;
- 1061 (30) Code Section 26-4-85, relating to patient counseling by a pharmacist;
- 1062 (31) Code Section 26-4-116, relating to emergency service providers with respect to
1063 dangerous drugs and controlled substances;
- 1064 (32) Code Section 26-4-172, relating to license requirements under the "Nuclear
1065 Pharmacy Law";
- 1066 (33) Code Section 26-5-3, relating to definitions relative to the "Drug Abuse Treatment
1067 and Education Act";
- 1068 (34) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1069 (35) Code Section 31-3-4, relating to powers of county boards of health;
- 1070 (36) Code Section 31-3-11, relating to appointments of director and staff of county board
1071 of health;
- 1072 (37) Code Section 31-5-1, relating to adoption of rules and regulations by the
1073 Department of Human Resources and county boards of health;
- 1074 (38) Code Section 31-5-9, relating to injunctions for enjoining violations of the
1075 provisions of Title 31;
- 1076 (39) Code Section 31-5-20, relating to the definition of the term "inspection warrant"
1077 with respect to enforcement of certain public health laws;
- 1078 (40) Code Section 31-5-21, relating to persons who may obtain inspection warrants;
- 1079 (41) Code Section 31-7-133, relating to confidentiality of review organization's records;
- 1080 (42) Code Section 31-7-172, relating to definitions relative to hospice care;
- 1081 (43) Code Section 31-7-175, relating to the administration of the article of the "Georgia
1082 Hospice Law";
- 1083 (44) Code Section 31-8-1, relating to the establishment and purpose of the Hospital Care
1084 for the Indigent Program;
- 1085 (45) Code Section 31-8-36, relating to state appropriations to the Nonresident Indigent
1086 Health Care Fund;
- 1087 (46) Code Section 31-8-46, relating to investigation of violations by a hospital;
- 1088 (47) Code Section 31-8-193, relating to the establishment of a program to provide health
1089 care services to low-income recipients;
- 1090 (48) Code Section 31-9A-4, relating to information to be made available by the
1091 Department of Human Resources under the "Woman's Right to Know Act";
- 1092 (49) Code Section 31-9A-6, relating to reporting requirements under the "Woman's Right
1093 to Know Act";
- 1094 (50) Code Section 31-10-1, relating to definitions relative to vital records;

- 1095 (51) Code Section 31-11-1, relating to findings of the General Assembly and declaration
1096 of policy with respect to emergency medical services;
- 1097 (52) Code Section 31-11-3, relating to recommendations by local coordinating entity as
1098 to administration of the Emergency Medical Systems Communication Program;
- 1099 (53) Code Section 31-11-81, relating to definitions relative to emergency services;
- 1100 (54) Code Section 31-11-100, relating to definitions relative to the Georgia Trauma Care
1101 Network Commission;
- 1102 (55) Code Section 31-11-101, relating to the creation of the Georgia Trauma Care
1103 Network Commission;
- 1104 (56) Code Section 31-11-102, relating to the duties and responsibilities of the Georgia
1105 Trauma Care Network Commission;
- 1106 (57) Code Section 31-11-110, relating to legislative findings relative to a system of
1107 certified stroke centers;
- 1108 (58) Code Section 31-12-1, relating to the power to conduct research and studies relative
1109 to the control of hazardous conditions, preventable diseases, and metabolic diseases;
- 1110 (59) Code Section 31-12A-9, relating to a continuing education program relative to the
1111 "Georgia Smokefree Air Act of 2005";
- 1112 (60) Code Section 31-12A-10, relating to enforcement by the Department of Human
1113 Resources and county boards of health of the "Georgia Smokefree Air Act of 2005";
- 1114 (61) Code Section 31-13-3, relating to definitions relative to the "Georgia Radiation
1115 Control Act";
- 1116 (62) Code Section 31-13-4, relating to administration of state-wide radiation control
1117 program for radiation generating equipment;
- 1118 (63) Code Section 31-13-5, relating to the powers and duties of the Department of
1119 Human Resources and the Department of Natural Resources under the "Georgia
1120 Radiation Control Act";
- 1121 (64) Code Section 31-13-8.2, relating to licensing of diagnostic and therapeutic medical
1122 uses of radioactive materials;
- 1123 (65) Code Section 31-13-9, relating to records of use of radiation sources and exposure
1124 of employees to radiation;
- 1125 (66) Code Section 31-13-10, relating to suspension, revocation, and amendment of
1126 license or registration of radiation generating equipment;
- 1127 (67) Code Section 31-13-11, relating to impounding and condemnation of radiation
1128 generating equipment and radioactive materials;
- 1129 (68) Code Section 31-13-12, relating to the license requirements under the "Georgia
1130 Radiation Control Act";

- 1131 (69) Code Section 31-13-13, relating to penalties under the "Georgia Radiation Control
1132 Act";
- 1133 (70) Code Section 31-13-23, relating to transfer of powers and duties between the
1134 Department of Natural Resources and the Department of Human Resources under the
1135 "Georgia Radiation Control Act";
- 1136 (71) Code Section 31-14-2, relating to petition for commitment of a person who has
1137 active tuberculosis;
- 1138 (72) Code Section 31-14-9, relating to procedure for securing discharge of a person
1139 committed for active tuberculosis;
- 1140 (73) Code Section 31-15-2, relating to the establishment of a program for the prevention,
1141 control, and treatment of cancer;
- 1142 (74) Code Section 31-16-2, relating to the establishment of a program for the prevention,
1143 control, and treatment of kidney disease;
- 1144 (75) Code Section 31-17-2, relating to the report of diagnosis or treatment to health
1145 authorities of a case of venereal disease;
- 1146 (76) Code Section 31-17-3, relating to examination and treatment by health authorities
1147 for venereal disease;
- 1148 (77) Code Section 31-17-4.2, relating to HIV pregnancy screening;
- 1149 (78) Code Section 31-17A-2, relating to examination of persons infected or suspected
1150 of being infected with HIV;
- 1151 (79) Code Section 31-17A-3, relating to refusal to consent to an HIV test;
- 1152 (80) Code Section 31-18-4, relating to the duties of the Brain and Spinal Injury Trust
1153 Fund Commission;
- 1154 (81) Code Section 31-21-25, relating to bonds required prior to receiving unclaimed
1155 bodies;
- 1156 (82) Code Section 31-22-2, relating to licenses to operate clinical laboratories;
- 1157 (83) Code Section 31-22-9.1, relating to who may perform HIV tests;
- 1158 (84) Code Section 31-22-9.2, relating to report of positive HIV tests;
- 1159 (85) Code Section 31-23-3, relating to hospitals or medical schools which may operate
1160 eye banks;
- 1161 (86) Code Section 31-24-4, relating to labeling of containers of blood under "The Blood
1162 Labeling Act";
- 1163 (87) Code Section 31-26-2, relating to the requirement of a certificate to practice
1164 midwifery;
- 1165 (88) Code Section 31-27-2, relating to the requirement of a permit for a mass gathering;
- 1166 (89) Code Section 31-28-2, relating to issuance of permits to operate a tourist court;

- 1167 (90) Code Section 31-28-5, relating to standards for health, sanitation, and safety of
1168 tourist courts;
- 1169 (91) Code Section 31-28-6, relating to inspection of premises of tourist courts;
- 1170 (92) Code Section 31-30-9, relating to effectiveness of chapter on reports on veterans
1171 exposed to agent orange;
- 1172 (93) Code Section 31-34-5, relating to service cancelable loans under the "Physicians for
1173 Rural Areas Assistance Act";
- 1174 (94) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for
1175 emergency providers;
- 1176 (95) Code Section 31-40-2, relating to issuance of permits for tattoo studios;
- 1177 (96) Code Section 31-40-5, relating to rules and regulations relative to tattoo studios;
- 1178 (97) Code Section 31-40-6, relating to enforcement of chapter regulating tattoo studios;
- 1179 (98) Code Section 31-40-8, relating to a public education program relative to tattoo
1180 studios;
- 1181 (99) Code Section 31-45-8, relating to inspections by the county board of health of
1182 public swimming pools;
- 1183 (100) Code Section 31-45-9, relating to suspension or revocation of permit for a public
1184 swimming pool;
- 1185 (101) Code Section 31-45-10, relating to rules and regulations relative to public
1186 swimming pools;
- 1187 (102) Code Section 31-45-11, relating to enforcement of rules and regulations relative
1188 to public swimming pools;
- 1189 (103) Code Section 31-46-4, relating to the Georgia Commission for Saving the Cure;
- 1190 (104) Code Section 33-24-59.7, relating to insurance coverage for the treatment of
1191 morbidly obese patients;
- 1192 (105) Code Section 33-29-3.2, relating to individual accident and sickness insurance
1193 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1194 (106) Code Section 33-30-4.2, relating to group accident and sickness insurance
1195 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1196 (107) Code Section 33-44-3, relating to the creation of the Georgia High Risk Health
1197 Insurance Plan;
- 1198 (108) Code Section 34-9-1, relating to definitions relative to workers' compensation;
- 1199 (109) Code Section 34-9-415, relating to testing under drug-free workplace programs;
- 1200 (110) Code Section 35-1-8, relating to acquisition, collection, classification, and
1201 preservation of information assisting in identifying deceased persons and locating missing
1202 persons;

1203 (111) Code Section 36-62-2, relating to definitions relative to the "Development
1204 Authorities Law";

1205 (112) Code Section 38-3-22, relating to the Governor's emergency management powers
1206 and duties;

1207 (113) Code Section 38-3-51, relating to emergency powers of the Governor;

1208 (114) Code Section 40-5-25, relating to applications for instruction permits and drivers'
1209 licenses;

1210 (115) Code Section 40-6-392, relating to chemical tests for alcohol or drugs in blood
1211 relating to violations of driving under the influence of alcohol, drugs, or other
1212 intoxicating substances;

1213 (116) Code Section 42-1-7, relating to notification to transporting law enforcement
1214 agency of inmate's or patient's infectious or communicable disease;

1215 (117) Code Section 42-4-6, relating to confinement and care of tubercular inmates;

1216 (118) Code Section 42-4-32, relating to sanitation and health requirements for jails;

1217 (119) Code Section 43-10-6, relating to rules and regulations as to sanitary requirements
1218 of beauty shops, beauty salons, schools of cosmetology, schools of esthetics, schools of
1219 hair design, and schools of nail care;

1220 (120) Code Section 43-11-74, relating to direct supervision requirement of dental
1221 hygienists by a licensed dentist;

1222 (121) Code Section 43-14-2, relating to definitions relative to the regulation of electrical
1223 contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility
1224 contractors;

1225 (122) Code Section 43-18-1, relating to definitions relative to the regulation of funeral
1226 directors and establishments, embalmers, and crematories;

1227 (123) Code Section 43-18-46, relating to grounds for denial or revocation of license or
1228 registration to operate a funeral establishment or to practice embalming or funeral
1229 directing;

1230 (124) Code Section 43-27-1, relating to definitions relative to nursing home
1231 administrators;

1232 (125) Code Section 43-34-26.1, relating to delegation of authority to nurse or physician's
1233 assistant;

1234 (126) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced
1235 practice registered nurse;

1236 (127) Code Section 43-34-103, relating to applications for utilization of physician's
1237 assistants;

1238 (128) Code Section 45-18-1, relating to definitions relative to the state employees' health
1239 insurance plan;

- 1240 (129) Code Section 45-18-32, relating to administration of deferred compensation plans
1241 for employees of the state;
- 1242 (130) Code Section 46-11-4, relating to regulation of transportation of hazardous
1243 materials on public roads of the state generally;
- 1244 (131) Code Section 49-4-152.3, relating to reuse of unit dosage drugs under Medicaid;
- 1245 (132) Code Section 49-6-81, relating to the legislative intent of the "Adult Day Center
1246 for Aging Adults Licensure Act";
- 1247 (133) Code Section 49-6-82, relating to definitions relative to the "Adult Day Center for
1248 Aging Adults Licensure Act";
- 1249 (134) Code Section 50-13-4, relating to procedural requirements for adoption,
1250 amendment, or repeal of rules by a state agency;
- 1251 (135) Code Section 50-18-72, relating to when public disclosure is not required under
1252 open records laws;
- 1253 (136) Code Section 50-18-76, relating to written matter exempt from disclosure under
1254 vital records laws; and
- 1255 (137) Code Section 50-26-4, relating to definitions relative to the "Georgia Housing and
1256 Finance Authority Act."

1257 **SECTION 1-5.**

1258 The following Code sections of the Official Code of Georgia Annotated are amended by
1259 replacing "Board of Human Resources" wherever it occurs with "Board of Community
1260 Health":

- 1261 (1) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1262 (2) Code Section 31-7-304, relating to fees on private home care providers;
- 1263 (3) Code Section 31-11-2, relating to definitions relative to emergency medical services;
- 1264 (4) Code Section 31-11-3, relating to recommendations by local coordinating entity as
1265 to administration of the Emergency Medical Systems Communication Program;
- 1266 (5) Code Section 31-11-31.1, relating to license fees on ambulance services;
- 1267 (6) Code Section 31-12-14, relating to breast cancer, prostate cancer, and ovarian cancer
1268 research program fund;
- 1269 (7) Code Section 31-22-1, relating to definitions relative to clinical laboratories;
- 1270 (8) Code Section 42-9-12, relating to appointment of replacement for incapacitated
1271 member on the State Board of Pardons and Paroles; and
- 1272 (9) Code Section 43-7-9, relating to general powers and duties of the State Board of
1273 Barbers.

SECTION 1-6.

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "commissioner of human resources" wherever it occurs with "commissioner of community health":

- (1) Code Section 8-2-24, relating to appointment of advisory committee relating to state building, plumbing, and electrical codes;
- (2) Code Section 12-5-524, relating to the creation of the Water Council;
- (3) Code Section 16-12-141, relating to when abortion is legal;
- (4) Code Section 16-12-141.1, relating to disposal of aborted fetuses;
- (5) Code Section 21-2-231, relating to lists of persons convicted of felonies, persons declared mentally incompetent, and deceased persons provided to Secretary of State with respect to registration of voters;
- (6) Code Section 26-2-393, relating to enforcement of article relating to nonprofit food sales and food service;
- (7) Code Section 31-7-176.1, relating to determination or pronouncement of death of a patient in hospice care;
- (8) Code Section 31-8-32, relating to determination of indigency for hospital care for nonresidents;
- (9) Code Section 31-8-43, relating to determination of indigency for hospital care for pregnant women;
- (10) Code Section 31-9A-2, relating to definitions relative to the "Woman's Right to Know Act";
- (11) Code Section 31-10-1, relating to definitions relative to vital records;
- (12) Code Section 31-11-2, relating to definitions relative to emergency medical services;
- (13) Code Section 31-11-36, relating to suspension or revocation of licenses for ambulance services;
- (14) Code Section 31-16-3, relating to functions of the Kidney Disease Advisory Committee;
- (15) Code Section 31-27-7, relating to emergency powers of the Governor regarding mass gatherings;
- (16) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for emergency responders;
- (17) Code Section 31-36A-7, relating to petition for health care placement transfer, admission, or discharge order by health care facility;
- (18) Code Section 33-20B-3.1, relating to health maintenance organizations' expansion into rural areas;

- 1311 (19) Code Section 33-21-3, relating to grounds and procedure for issuance or denial of
1312 certificate of authority for a health maintenance organization;
- 1313 (20) Code Section 33-21-5, relating to suspension or revocation of certificate of authority
1314 for a health maintenance organization;
- 1315 (21) Code Section 33-21-15, relating to filing of annual reports by health maintenance
1316 organizations;
- 1317 (22) Code Section 33-21-17, relating to examinations of health maintenance
1318 organizations and providers;
- 1319 (23) Code Section 33-21-18, relating to adoption of rules and regulations generally
1320 relative to health maintenance organizations;
- 1321 (24) Code Section 33-21-20, relating to conduct of hearings generally relative to health
1322 maintenance organizations;
- 1323 (25) Code Section 33-21-21, relating to authority of commissioner of human resources
1324 to contract for making of recommendations required by health maintenance organizations
1325 laws;
- 1326 (26) Code Section 33-21-27, relating to enforcement of health maintenance organizations
1327 laws;
- 1328 (27) Code Section 38-2-10, relating to use of National Guard in drug law enforcement,
1329 provision of medical care in medically underserved areas, and for youth opportunity
1330 training programs;
- 1331 (28) Code Section 42-4-32, relating to sanitation and health requirements in jails
1332 generally;
- 1333 (29) Code Section 42-9-12, relating to appointment of replacement for incapacitated
1334 member on the State Board of Pardons and Paroles;
- 1335 (30) Code Section 43-1A-4, relating to the Occupational Regulation Review Council;
- 1336 (31) Code Section 43-27-2, relating to creation of the State Board of Nursing Home
1337 Administrators;
- 1338 (32) Code Section 43-45-3, relating to creation of the State Structural Pest Control
1339 Commission;
- 1340 (33) Code Section 45-9-73, relating to the creation of the Georgia Public School
1341 Personnel Indemnification Commission; and
- 1342 (34) Code Section 45-9-83, relating to the creation of the Georgia State Indemnification
1343 Commission.

1344 **SECTION 1-7.**

1345 The following Code sections of the Official Code of Georgia Annotated are amended by
1346 replacing "Chapter 5A of Title 31" wherever it occurs with "Chapter 2 of Title 31":

- 1347 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for
1348 public school teachers;
- 1349 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for
1350 public school employees;
- 1351 (3) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to
1352 Independent Review Act";
- 1353 (4) Code Section 45-18-1, relating to definitions relative to the state employees' health
1354 insurance plan;
- 1355 (5) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1356 (6) Code Section 49-4-142, relating to the authorization of the Department of
1357 Community Health to adopt and administer a state plan for medical assistance;
- 1358 (7) Code Section 49-4-143, relating to the power of the Board of Community Health with
1359 respect to Medicaid; and
- 1360 (8) Code Section 49-4-144, relating to the chief administrative officer of the Department
1361 of Community Health.

1362 **SECTION 1-8.**

1363 The following Code sections of the Official Code of Georgia Annotated are amended by
1364 replacing "Chapter 5A of this title" wherever it occurs with "Chapter 2 of this title":

- 1365 (1) Code Section 31-6-2, relating to definitions relative to state health planning and
1366 development;
- 1367 (2) Code Section 31-6-21, relating to the Department of Community Health generally
1368 under state health planning and development;
- 1369 (3) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act;"
- 1370 (4) Code Section 31-8-151, relating to definitions relative to the indigent care trust fund;
- 1371 (5) Code Section 31-8-162, relating to definitions relative to nursing home provider fees;
1372 and
- 1373 (6) Code Section 31-8-171, relating to definitions relative to quality assessment fees on
1374 care management organizations.

1375 **SECTION 1-9.**

1376 The following Code sections of the Official Code of Georgia Annotated are amended by
1377 replacing "Code Section 31-2-6" wherever it occurs with "Code Section 31-2-11":

- 1378 (1) Code Section 25-2-40, relating to smoke detectors required in new dwellings and
1379 dwelling units;
- 1380 (2) Code Section 31-7-2.1, relating to rules and regulations relative to regulation of
1381 hospitals and related institutions;

- 1382 (3) Code Section 31-7-302, relating to rules and regulations relative to private home care
 1383 providers;
- 1384 (4) Code Section 31-8-60, relating to retaliation against a resident of a long-term care
 1385 facility and prohibition against interference with the ombudsman;
- 1386 (5) Code Section 31-8-135, relating to hearings under the "Remedies for Residents of
 1387 Personal Care Homes Act";
- 1388 (6) Code Section 31-11-9, relating to enforcement of emergency medical services laws;
 1389 and
- 1390 (7) Code Section 31-44-11, relating to the authority of the Department of Human
 1391 Resources to deal with violations of renal disease facilities laws.

1392 **SECTION 1-10.**

- 1393 The following Code sections of the Official Code of Georgia Annotated are amended by
 1394 replacing "Code Section 31-2-7" wherever it occurs with "Code Section 31-2-12":
- 1395 (1) Code Section 31-3-5, relating to functions of county boards of health;
- 1396 (2) Code Section 31-3-5.1, relating to conformity prerequisite to building permit; and
- 1397 (3) Code Section 50-13-4, relating to procedural requirements for adoption, amendment,
 1398 or repeal of rules.

1399 **SECTION 1-11.**

- 1400 Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or
 1401 deceptive practices in consumer transactions which are deemed unlawful, is amended by
 1402 revising paragraph (26) of subsection (b) as follows:
- 1403 "(26) With respect to any individual or facility providing personal care services:
- 1404 (A) Any person or entity not duly licensed or registered as a personal care home
 1405 formally or informally offering, advertising to, or soliciting the public for residents or
 1406 referrals;
- 1407 (B) Any personal care home, as defined in subsection (a) of Code Section 31-7-12,
 1408 offering, advertising, or soliciting the public to provide services:
- 1409 (i) Which are outside the scope of personal care services; and
- 1410 (ii) For which it has not been specifically authorized.
- 1411 Nothing in this subparagraph prohibits advertising by a personal care home for services
 1412 authorized by the Department of ~~Human Resources~~ Community Health under a waiver
 1413 or variance pursuant to subsection (b) of Code Section ~~31-2-4~~ 31-2-9;
- 1414 (C) For purposes of this paragraph, 'personal care' means protective care and watchful
 1415 oversight of a resident who needs a watchful environment but who does not have an

1416 illness, injury, or disability which requires chronic or convalescent care including
1417 medical and nursing services.

1418 The provisions of this paragraph shall be enforced following consultation with the
1419 Department of ~~Human Resources~~ Community Health which shall retain primary
1420 responsibility for issues relating to licensure of any individual or facility providing
1421 personal care services;"

1422 SECTION 1-12.

1423 Code Section 12-8-41 of the Official Code of Georgia Annotated, relating to permits issued
1424 by the Department of Natural Resources for land disposal sites, is amended as follows:

1425 "12-8-41.

1426 The department shall provide by rule or regulation for the regulation and permitting of any
1427 land disposal site that receives septic tank waste from any one or more septic tank pumping
1428 and hauling businesses. Any new permit issued for such type of site on or after July 1,
1429 2007, shall be issued by the department under this Code section. Any such type of site that
1430 as of June 30, 2007, operated under a valid permit issued on or before such date by the
1431 Department of Human Resources (now known as the Department of Community Health
1432 for these purposes) under Code Section ~~31-2-8~~ 31-2-13 may continue to operate under such
1433 Code section until July 1, 2012, but a permit shall be obtained from the department under
1434 this Code section prior to such date in order to continue such operation thereafter."

1435 SECTION 1-13.

1436 Code Section 15-11-66.1 of the Official Code of Georgia Annotated, relating to disposition
1437 of a child committing delinquent act constituting AIDS transmitting crime, is amended by
1438 revising subsection (e) as follows:

1439 "(e) If a child is required by this Code section to submit to an HIV test and is thereby
1440 determined to be infected with HIV, that determination and the name of the child shall be
1441 deemed to be AIDS confidential information and shall be reported to:

1442 (1) The Department of Juvenile Justice or the Department of Corrections, as the case
1443 may be, and the Department of ~~Human Resources~~ Community Health, the latter of which
1444 may disclose the name of the child if necessary to provide and shall provide counseling
1445 to each victim of that child's AIDS transmitting crime or to any parent or guardian of any
1446 victim who is a minor or incompetent person, if the Department of Juvenile Justice or the
1447 Department of Corrections believes the crime posed a reasonable risk of transmitting HIV
1448 to the victim;

1449 (2) The court which ordered the HIV test; and

(3) Those persons in charge of any facility to which the child has been confined by order of the court. In addition to any other restrictions regarding the confinement of children, a child determined to be an HIV infected person may be confined in that facility separately from any other children in that facility other than those who have been determined to be infected with HIV if:

(A) That child is reasonably believed to be sexually active while confined;

(B) That child is reasonably believed to be sexually predatory either during or prior to detention; or

(C) The commissioner of juvenile justice or the commissioner of corrections, as the case may be, reasonably determines that other circumstances or conditions exist which indicate that separate confinement would be warranted."

SECTION 1-14.

Code Section 15-21-143 of the Official Code of Georgia Annotated, relating to appointment of members and personnel of the Brain and Spinal Injury Trust Fund Commission, is amended as follows:

"15-21-143.

(a) The Brain and Spinal Injury Trust Fund Commission shall consist of 15 members who shall serve for terms of two years, except that with respect to the first members appointed, five members shall be appointed for a term of three years, five for a term of two years, and five for a term of one year. The following agencies may each appoint one member of the commission:

(1) The Division of Rehabilitation Services of the Department of Labor;

(2) The State Board of Education;

(3) The Department of Public Safety;

(4) The Department of Community Health; and

(5) The Department of Human ~~Resources~~ Services.

The remaining ten members of the commission shall be appointed by the Governor, seven of whom shall be citizens who have sustained brain or spinal cord injury or members of such persons' immediate families, no more than one of whom shall reside in the same geographic area of the state which constitutes a health district established by the Department of ~~Human Resources~~ Community Health. The Governor is authorized but not required to appoint the remaining three members from recommendations submitted by the Private Rehabilitation Suppliers of Georgia, the Georgia Hospital Association, the Brain Injury Association of Georgia, the Medical Association of Georgia, and the Georgia State Medical Association. The Governor shall also establish initial terms of office for all 15 members of the board within the limitations of this subsection.

(b) In the event of death, resignation, disqualification, or removal for any reason of any member of the commission, the vacancy shall be filled in the same manner as the original appointment and the successor shall serve for the unexpired term.

(c) Membership on the commission does not constitute public office, and no member shall be disqualified from holding public office by reason of his or her membership.

(d) The Governor shall designate a chairperson of the commission from among the members, which chairperson shall serve in that position at the pleasure of the Governor. The commission may elect such other officers and committees as it considers appropriate.

(e) The commission, with the approval of the Governor, may employ such professional, technical, or clerical personnel as deemed necessary to carry out the purposes of this chapter."

SECTION 1-15.

Code Section 17-18-1 of the Official Code of Georgia Annotated, relating to duty of certain officials to offer written statement of information to victims of rape or forcible sodomy, is amended as follows:

"17-18-1.

When any employee of the ~~Department of Human Resources~~, Department of Human Services, Department of Community Health, Department of Behavioral Health and Developmental Disabilities, a law enforcement agency, or a court has reason to believe that he or she in the course of official duties is speaking to an adult who is or has been a victim of a violation of Code Section 16-6-1, relating to rape, or Code Section 16-6-2, relating to aggravated sodomy, such employee shall offer or provide such adult a written statement of information for victims of rape or aggravated sodomy. Such written statement shall, at a minimum, include the information set out in Code Section 17-18-2 and may include additional information regarding resources available to victims of sexual assault. Information for victims of rape or aggravated sodomy may be provided in any language."

SECTION 1-16.

Code Section 19-3-35.1 of the Official Code of Georgia Annotated, relating to AIDS brochures for applicants for a marriage license, is amended by revising subsection (b) as follows:

"(b) The ~~Department of Human Resources~~ Department of Community Health shall prepare a brochure describing AIDS, HIV, and the dangers, populations at risk, risk behaviors, and prevention measures relating thereto. That department shall also prepare a listing of sites at which confidential and anonymous HIV tests are provided without charge. That department shall further prepare a form for acknowledging that the brochures and listings

1521 have been received, as required by subsection (c) of this Code section. The brochures,
1522 listings, and forms prepared by the Department of Community Health (formerly known as
1523 the Department of Human Resources for these purposes) under this subsection shall be
1524 prepared and furnished to the office of each judge of the probate court no later than
1525 October 1, 1988."

1526 **SECTION 1-17.**

1527 Code Section 19-13-32 of the Official Code of Georgia Annotated, relating to the
1528 membership, terms, filling of vacancies, and officers of the State Commission on Family
1529 Violence, is amended by revising paragraph (1) of subsection (a) as follows:

1530 "(1) Three ex officio members shall be the director of the Division of Family and Children
1531 Services of the Department of Human Services, the director of Women's Health Services
1532 in the ~~division of public health~~ Division of Public Health of the Department of ~~Human~~
1533 ~~Resources~~ Community Health, and the Attorney General;"

1534 **SECTION 1-18.**

1535 Code Section 19-13-35 of the Official Code of Georgia Annotated, relating to automatic
1536 termination provisions of the State Commission on Family Violence, is repealed in its
1537 entirety.

1538 **SECTION 1-19.**

1539 Code Section 19-15-4 of the Official Code of Georgia Annotated, relating to Georgia Child
1540 Fatality Review Panel, is amended by revising subsection (c) as follows:

1541 "(c) The panel shall be composed as follows:

- 1542 (1) One district attorney appointed by the Governor;
1543 (2) One juvenile court judge appointed by the Governor;
1544 (3) Two citizen members who shall be appointed by the Governor, who are not employed
1545 by or officers of the state or any political subdivision thereof and one of whom shall come
1546 from each of the following: (A) a state-wide child abuse prevention organization; and (B)
1547 a state-wide childhood injury prevention organization;
1548 (4) One forensic pathologist appointed by the Governor;
1549 (5) The chairperson of the Board of Human ~~Resources~~ Services;
1550 (6) The director of the Division of Family and Children Services of the Department of
1551 Human ~~Resources~~ Services;
1552 (7) The director of the Georgia Bureau of Investigation;
1553 (8) The chairperson of the Criminal Justice Coordinating Council;
1554 (9) A member of the Georgia Senate appointed by the Lieutenant Governor;

- 1555 (10) A member of the Georgia House of Representatives appointed by the Speaker of the
 1556 House of Representatives;
- 1557 (11) A local law enforcement official appointed by the Governor;
- 1558 (12) A superior court judge appointed by the Governor;
- 1559 (13) A coroner appointed by the Governor;
- 1560 (14) The Child Advocate for the Protection of Children;
- 1561 (15) The director of the Division of Public Health of the Department of ~~Human~~
 1562 ~~Resources~~ Community Health; and
- 1563 (16) The ~~director~~ commissioner of the ~~Division of Mental Health, Developmental~~
 1564 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ behavioral
 1565 health and developmental disabilities."

1566 SECTION 1-20.

1567 Code Section 20-2-260 of the Official Code of Georgia Annotated, relating to capital outlay
 1568 funds generally, is amended by revising paragraphs (5) and (8) of subsection (c) as follows:

1569 "(5) To develop a state-wide needs assessment for purposes of planning and developing
 1570 policies, anticipating state-wide needs for educational facilities, and providing assistance
 1571 to local school systems in developing educational facilities plans. The state-wide needs
 1572 assessment shall be developed from, among other sources, vital statistics published by the
 1573 Department of ~~Human Resources~~ Community Health, census data published by the Bureau
 1574 of the Census, local school system educational facilities and real property inventories,
 1575 educational facilities surveys, full-time equivalent student projection research, and
 1576 educational facilities construction plans; shall reflect circumstances where rapid population
 1577 growth is caused by factors not reflected in full-time equivalent student projection research;
 1578 and shall give priority to elementary school construction. In addition, the state board shall
 1579 develop a consistent, systematic research approach to full-time equivalent student
 1580 projections which will be used in the development of needs within each local unit.
 1581 Projections shall not be confined to full-time equivalent resident students but shall be based
 1582 on full-time equivalent student counts which include full-time equivalent nonresident
 1583 students, whether or not such full-time equivalent nonresident students attend school
 1584 pursuant to a contract between local school systems. The full-time equivalent projection
 1585 shall be calculated in accordance with subsection (m) of this Code section. The survey
 1586 team will use such projections in determining the improvements needed for the five-year
 1587 planning period. The state board shall also develop schedules for allowable square footage
 1588 and cost per square foot and review these schedules annually. The cost estimate for each
 1589 recommended improvement included in the plan shall be based on these schedules. Any
 1590 increase in cost or square footage for a project beyond that allowed by state board

schedules for such projects shall be the responsibility of the local school system and shall not count toward present or future required local participation. The schedules for allowable square footage and cost per square foot shall be specified in regulations by the State Board of Education;"

"(8) To coordinate construction project reviews with the state fire marshal's office and the Department of ~~Human Resources~~ Community Health;"

SECTION 1-21.

Code Section 26-4-192 of the Official Code of Georgia Annotated, relating to the state-wide program for distribution of unused prescription drugs for the benefit of medically indigent persons, is amended as follows:

"26-4-192.

(a) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the Department of Community Health shall jointly develop and implement a state-wide program consistent with public health and safety standards through which unused prescription drugs, other than prescription drugs defined as controlled substances, may be transferred from health care facilities to pharmacies designated or approved by the Department of ~~Human Resources~~ Community Health for the purpose of distributing such drugs to residents of this state who are medically indigent persons.

(b) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the Department of Community Health shall be authorized to develop and implement a pilot program to determine the safest and most beneficial manner of implementing the program prior to the state-wide implementation of the program required in subsection (a) of this Code section.

(c) The Georgia State Board of Pharmacy, in consultation with ~~the Department of Human Resources~~ and the Department of Community Health, shall develop and promulgate rules and regulations to establish procedures necessary to implement the program and pilot program, if applicable, provided for in this Code section. The rules and regulations shall provide, at a minimum:

(1) For an inclusionary formulary for the prescription drugs to be distributed pursuant to the program;

(2) For the protection of the privacy of the individual for whom a prescription drug was originally prescribed;

(3) For the integrity and safe storage and safe transfer of the prescription drugs, which may include, but shall not be limited to, limiting the drugs made available through the program to those that were originally dispensed by unit dose or an individually sealed

dose and that remain in intact packaging; provided, however, that the rules and regulations shall authorize the use of any remaining prescription drugs;

(4) For the tracking of and accountability for the prescription drugs; and

(5) For other matters necessary for the implementation of the program.

(d) The state-wide program required by this Code section shall be implemented no later than January 1, 2007, unless a pilot program is implemented pursuant to subsection (b) of this Code section, in which case state-wide implementation shall occur no later than July 1, 2008."

SECTION 1-22.

Code Section 31-5-2 of the Official Code of Georgia Annotated, relating to hearings of the Department of Human Resources, is amended as follows:

"31-5-2.

(a) Hearings shall be required ~~with respect to~~ for any and all quasi-judicial actions and in any other proceeding required by this title or the Constitution of Georgia. All such hearings shall be conducted ~~as provided in this Code section~~ in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

~~(b) Where hearing is required or afforded, notice thereof as provided in this Code section shall be given in person or by registered or certified mail or statutory overnight delivery to all interested parties; provided, however, in proceedings where the number of interested parties is so numerous as to make individual notice impracticable, notice shall be given by publication or by such other means reasonably calculated to afford actual notice as may be prescribed by the agency or person conducting such hearing. All notices shall state (1) the time and place of hearing and nature thereof and (2) the matters of fact and law asserted and must be given at least five days before the day set for hearing unless the agency determines that an imminent threat to the public health exists which requires shorter notice.~~

~~(c) All interested parties at such hearings shall have, upon request, compulsory process as provided in Code Section 31-5-4 and shall have the right to adduce evidence and conduct cross-examination of all adverse witnesses. Any member of the department or county boards of health, as the case may be, their authorized officials or agents, or any attorney at law may administer oaths to all witnesses. No witness shall be abused while under examination or required to incriminate himself. Where possible, all evidence and proceedings shall be reported.~~

~~(d) The department is authorized and empowered to employ and appoint hearing examiners to conduct hearings, issue compulsory process, administer oaths, and submit their findings and recommendations to the appointing agency; provided, however, that any such examiner shall be a member in good standing of the State Bar of Georgia. A county~~

~~board of health is authorized and empowered to direct its director or the director's appointee to conduct hearings, issue compulsory process, administer oaths, and submit his findings and recommendations to the county board of health. In both of such cases, the examiner and director or the director's appointee shall make the report available to all interested parties, and such parties are permitted to file written exception thereto prior to final decision thereon."~~

SECTION 1-23.

Code Section 31-6-21.1 of the Official Code of Georgia Annotated, relating to procedures for rule making by the Department of Community Health, is amended by adding a new subsection to the end of the Code section to read as follows:

"(j) This Code section shall apply only to rules adopted pursuant to this chapter."

SECTION 1-24.

Code Section 31-6-47 of the Official Code of Georgia Annotated, relating to exemptions from certificate of need requirements, is amended by revising division (a)(18)(A)(ii) as follows:

"(ii) Is the only single specialty ambulatory surgical center in the county owned by the group practice and has two or fewer operating rooms; provided, however, that a center exempt pursuant to this ~~paragraph~~ division shall be required to obtain a certificate of need in order to add any additional operating rooms;"

SECTION 1-25.

Code Section 31-6-48 of the Official Code of Georgia Annotated, relating to the abolishment of prior entities and the transfer of contractual obligations, is amended as follows:

"31-6-48.

The State Health Planning and Development Agency, the State-wide Health Coordinating Council, and the State Health Planning Review Board existing immediately prior to July 1, 1983, are abolished, and their respective successors on and after July 1, 1983, shall be the Health Planning Agency, the Health Policy Council, and the Health Planning Review Board, as established in this chapter, except that on and after July 1, 1991, the Health Strategies Council shall be the successor to the Health Policy Council, and except that on and after July 1, 1999, the Department of Community Health shall be the successor to the Health Planning Agency, and except that on and after July 1, 2008, the Board of Community Health shall be the successor to the duties of the Health Strategies Council with respect to adoption of the state health plan, and except that on June 30, 2008, the Health Planning Review Board is abolished and the terms of all members on such board

on such date shall automatically terminate and the Certificate of Need Appeal Panel shall be the successor to the duties of the Health Planning Review Board on such date. For purposes of any existing contract with the federal government, or federal law referring to such abolished agency, council, or board, the successor department, council, or board established in this chapter or in Chapter 5A 2 of this title shall be deemed to be the abolished agency, council, or board and shall succeed to the abolished agency's, council's, or board's functions. The State Health Planning and Development Commission is abolished."

SECTION 1-26.

Code Section 31-7-2.2 of the Official Code of Georgia Annotated, relating to determination that patients or residents in an institution, community living arrangement, or treatment program are in danger, is amended as follows:

"31-7-2.2.

(a)(1) The commissioner may order the emergency relocation of patients or residents from an institution subject to licensure under this chapter, a community living arrangement subject to licensure under paragraph ~~(16)~~(8) of subsection ~~(b)~~(d) and subsection ~~(c)~~ of Code Section ~~37-1-20~~ 31-2-4, or a drug abuse treatment and education program subject to licensure under Chapter 5 of Title 26 when the commissioner has determined that the patients or residents are subject to an imminent and substantial danger.

(2) When an order is issued under this subsection, the commissioner shall provide for:

(A) Notice to the patient or resident, his or her next of kin or guardian, and his or her physician of the emergency relocation and the reasons therefor;

(B) Relocation to the nearest appropriate institution, community living arrangement, or drug abuse treatment and education program; and

(C) Other protection designed to ensure the welfare and, when possible, the desires of the patient or resident.

(b)(1) The commissioner may order the emergency placement of a monitor in an institution subject to licensure under this chapter, a community living arrangement subject to licensure under paragraph ~~(16)~~(8) of subsection ~~(b)~~(d) and subsection ~~(c)~~ of Code Section ~~37-1-20~~ 31-2-4, or a drug abuse treatment and education program subject to licensure under Chapter 5 of Title 26 when one or more of the following conditions are present:

(A) The institution, community living arrangement, or drug abuse treatment and education program is operating without a permit or a license;

(B) The department has denied application for a permit or a license or has initiated action to revoke the existing permit or license of the institution, community living arrangement, or drug abuse treatment and education program;

(C) The institution, community living arrangement, or drug abuse treatment and education program is closing or plans to close and adequate arrangements for relocation of the patients or residents have not been made at least 30 days before the date of closure; or

(D) The health, safety, security, rights, or welfare of the patients or residents cannot be adequately assured by the institution, community living arrangement, or drug abuse treatment and education program.

(2) A monitor may be placed, pursuant to this subsection, in an institution, community living arrangement, or drug abuse treatment and education program for no more than ten days, during which time the monitor shall observe conditions and compliance with any recommended remedial action of the department by the institution, community living arrangement, or drug abuse treatment and education program. The monitor shall report to the department. The monitor shall not assume any administrative responsibility within the institution, community living arrangement, or drug abuse treatment and education program nor shall the monitor be liable for any actions of the institution, community living arrangement, or drug abuse treatment and education program. The costs of placing a monitor in an institution, community living arrangement, or drug abuse treatment and education program shall be paid by the institution, community living arrangement, or drug abuse treatment and education program unless the order placing the monitor is determined to be invalid in a contested case proceeding under subsection (d) of this Code section, in which event the costs shall be paid by the state.

(c)(1) The commissioner may order the emergency prohibition of admissions to an institution subject to licensure under this chapter, a community living arrangement subject to licensure under paragraph ~~(16)~~(8) of subsection ~~(b)~~(d) and subsection ~~(c)~~ of Code Section ~~37-1-20~~ 31-2-4, or program subject to licensure under Chapter 5 of Title 26 when ~~an~~ such institution, community living arrangement, or drug abuse treatment and education program has failed to correct a violation of departmental permit rules or regulations within a reasonable period of time, as specified in the department's corrective order, and the violation:

(A) Could jeopardize the health and safety of the residents or patients in the institution, community living arrangement, or drug abuse treatment and education program if allowed to remain uncorrected; or

(B) Is a repeat violation over a 12 month period, which is intentional or due to gross negligence.

(2) Admission to an institution, community living arrangement, or drug abuse treatment and education program may be suspended until the violation has been corrected or until the department has determined that the institution, community living arrangement, or drug abuse treatment and education program has undertaken the action necessary to effect correction of the violation.

(d) The commissioner may issue emergency orders pursuant to this Code section only if authorized by rules and regulations of the department. Unless otherwise provided in the order, an emergency order shall become effective immediately. The department shall hold a preliminary hearing within ten days following a request therefor by any institution, community living arrangement, or drug abuse treatment and education program affected by an emergency order. If at the preliminary hearing the order is determined by the department to be invalid, that order shall thereupon become void and of no effect. If at the preliminary hearing the order is determined by the department to be valid, that determination shall constitute a contested case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and that order shall remain in effect until determined invalid in a proceeding regarding the contested case or until rescinded by the commissioner, whichever is earlier. For purposes of this subsection, an emergency order is valid only if the order is authorized to be issued under this Code section and rules and regulations relating thereto.

(e) The powers provided by this Code section are cumulative of all other powers of the department, board, and commissioner."

SECTION 1-27.

Code Section 31-7-12 of the Official Code of Georgia Annotated, relating to regulation of personal care homes, is amended by revising paragraph (1) of subsection (a) as follows:

"(1) 'Personal care home' means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. This term shall not include host homes, as defined in paragraph ~~(16)~~(18) of subsection (b) of Code Section 37-1-20."

SECTION 1-28.

Code Section 31-7-17 of the Official Code of Georgia Annotated, relating to licensure and regulation of hospitals and related institutions transferred to Department of Community Health, is amended as follows:

1802 "31-7-17.

1803 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of hospitals
1804 and related institutions pursuant to this article shall be transferred from the Department of
1805 Human Resources (now known as the Department of Human Services) to the Department
1806 of Community Health.

1807 (b) The Department of Community Health shall succeed to all rules, regulations, policies,
1808 procedures, and administrative orders of the Department of Human Resources that are in
1809 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which
1810 relate to the functions transferred to the Department of Community Health pursuant to this
1811 Code section and shall further succeed to any rights, privileges, entitlements, obligations,
1812 and duties of the Department of Human Resources that are in effect on June 30, 2009,
1813 which relate to the functions transferred to the Department of Community Health pursuant
1814 to this Code section. Such rules, regulations, policies, procedures, and administrative
1815 orders shall remain in effect until amended, repealed, superseded, or nullified by the
1816 Department of Community Health by proper authority or as otherwise provided by law.

1817 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,
1818 agreements, and other transactions entered into before July 1, 2009, by the Department of
1819 Human Resources which relate to the functions transferred to the Department of
1820 Community Health pursuant to this Code section shall continue to exist; and none of these
1821 rights, privileges, entitlements, and duties are impaired or diminished by reason of the
1822 transfer of the functions to the Department of Community Health. In all such instances,
1823 the Department of Community Health shall be substituted for the Department of Human
1824 Resources, and the Department of Community Health shall succeed to the rights and duties
1825 under such contracts, leases, agreements, and other transactions.

1826 (d) All persons employed by the Department of Human Resources in capacities which
1827 relate to the functions transferred to the Department of Community Health pursuant to this
1828 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the
1829 Department of Community Health in similar capacities, as determined by the commissioner
1830 of community health. Such employees shall be subject to the employment practices and
1831 policies of the Department of Community Health on and after July 1, 2009, but the
1832 compensation and benefits of such transferred employees shall not be reduced as a result
1833 of such transfer. Employees who are subject to the rules of the State Personnel Board and
1834 thereby under the State Merit System of Personnel Administration and who are transferred
1835 to the department shall retain all existing rights under the State Merit System of Personnel
1836 Administration. Retirement rights of such transferred employees existing under the
1837 Employees' Retirement System of Georgia or other public retirement systems on June 30,
1838 2009, shall not be impaired or interrupted by the transfer of such employees and

1839 membership in any such retirement system shall continue in the same status possessed by
1840 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by
1841 said employees on June 30, 2009, shall be retained by said employees as employees of the
1842 Department of Community Health."

1843 **SECTION 1-29.**

1844 Code Section 31-7-95 of the Official Code of Georgia Annotated, relating to funding of
1845 medical education provided by hospital authorities and designated teaching hospitals, is
1846 amended by revising subsection (a) as follows:

1847 "(a) As used in this Code section, the term:

1848 (1) 'Designated teaching hospital' means a teaching hospital operated by other than a
1849 hospital authority, which hospital agrees to contract with the state to offer or continue to
1850 offer a residency program approved by the American Medical Association, which
1851 program has at least 50 residents and which hospital operates a 24 hour,
1852 seven-day-per-week emergency room open to the public and which hospital files a
1853 semiannual statistical report consistent with those filed by other state funded tertiary,
1854 neonatal, obstetrical centers with the ~~Family Health Section of the Department of Human~~
1855 ~~Resources~~ Department of Community Health.

1856 (2) 'Hospital authority' means a hospital authority operating a teaching hospital which
1857 offers a residency program approved by the American Medical Association.

1858 (3) 'Resident' means a physician receiving medical education and training through a
1859 teaching hospital operated by a hospital authority or designated teaching hospital."

1860 **SECTION 1-30.**

1861 Code Section 31-7-159 of the Official Code of Georgia Annotated, relating to licensure and
1862 regulation of home health agencies transferred to Department of Community Health, is
1863 amended as follows:

1864 "31-7-159.

1865 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of home
1866 health agencies pursuant to this article shall be transferred from the Department of Human
1867 Resources (now known as the Department of Human Services) to the Department of
1868 Community Health.

1869 (b) The Department of Community Health shall succeed to all rules, regulations, policies,
1870 procedures, and administrative orders of the Department of Human Resources that are in
1871 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which
1872 relate to the functions transferred to the Department of Community Health pursuant to this
1873 Code section and shall further succeed to any rights, privileges, entitlements, obligations,

and duties of the Department of Human Resources that are in effect on June 30, 2009, which relate to the functions transferred to the Department of Community Health pursuant to this Code section. Such rules, regulations, policies, procedures, and administrative orders shall remain in effect until amended, repealed, superseded, or nullified by the Department of Community Health by proper authority or as otherwise provided by law.

(c) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2009, by the Department of Human Resources which relate to the functions transferred to the Department of Community Health pursuant to this Code section shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the Department of Community Health. In all such instances, the Department of Community Health shall be substituted for the Department of Human Resources, and the Department of Community Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(d) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of Community Health pursuant to this Code section on June 30, 2009, shall, on July 1, 2009, become employees of the Department of Community Health in similar capacities, as determined by the commissioner of community health. Such employees shall be subject to the employment practices and policies of the Department of Community Health on and after July 1, 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be retained by said employees as employees of the Department of Community Health."

SECTION 1-31.

Code Section 31-7-265 of the Official Code of Georgia Annotated, relating to facility licensing and employee records checks for personal care homes transferred to Department of Community Health, is amended as follows:

1909 "31-7-265.

1910 (a) Effective July 1, 2009, all matters relating to facility licensing and employee records
1911 checks for personal care homes pursuant to this article shall be transferred from the
1912 Department of Human Resources (now known as the Department of Human Services) to
1913 the Department of Community Health.

1914 (b) The Department of Community Health shall succeed to all rules, regulations, policies,
1915 procedures, and administrative orders of the Department of Human Resources that are in
1916 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which
1917 relate to the functions transferred to the Department of Community Health pursuant to this
1918 Code section and shall further succeed to any rights, privileges, entitlements, obligations,
1919 and duties of the Department of Human Resources that are in effect on June 30, 2009,
1920 which relate to the functions transferred to the Department of Community Health pursuant
1921 to this Code section. Such rules, regulations, policies, procedures, and administrative
1922 orders shall remain in effect until amended, repealed, superseded, or nullified by the
1923 Department of Community Health by proper authority or as otherwise provided by law.

1924 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,
1925 agreements, and other transactions entered into before July 1, 2009, by the Department of
1926 Human Resources which relate to the functions transferred to the Department of
1927 Community Health pursuant to this Code section shall continue to exist; and none of these
1928 rights, privileges, entitlements, and duties are impaired or diminished by reason of the
1929 transfer of the functions to the Department of Community Health. In all such instances,
1930 the Department of Community Health shall be substituted for the Department of Human
1931 Resources, and the Department of Community Health shall succeed to the rights and duties
1932 under such contracts, leases, agreements, and other transactions.

1933 (d) All persons employed by the Department of Human Resources in capacities which
1934 relate to the functions transferred to the Department of Community Health pursuant to this
1935 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the
1936 Department of Community Health in similar capacities, as determined by the commissioner
1937 of community health. Such employees shall be subject to the employment practices and
1938 policies of the Department of Community Health on and after July 1, 2009, but the
1939 compensation and benefits of such transferred employees shall not be reduced as a result
1940 of such transfer. Employees who are subject to the rules of the State Personnel Board and
1941 thereby under the State Merit System of Personnel Administration and who are transferred
1942 to the department shall retain all existing rights under the State Merit System of Personnel
1943 Administration. Retirement rights of such transferred employees existing under the
1944 Employees' Retirement System of Georgia or other public retirement systems on June 30,
1945 2009, shall not be impaired or interrupted by the transfer of such employees and

1946 membership in any such retirement system shall continue in the same status possessed by
1947 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by
1948 said employees on June 30, 2009, shall be retained by said employees as employees of the
1949 Department of Community Health."

1950 **SECTION 1-32.**

1951 Code Section 31-7-308 of the Official Code of Georgia Annotated, relating to licensure and
1952 regulation of private home care providers transferred to Department of Community Health,
1953 is amended as follows:

1954 "31-7-308.

1955 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of private
1956 home care providers pursuant to this article shall be transferred from the Department of
1957 Human Resources (now known as the Department of Human Services) to the Department
1958 of Community Health.

1959 (b) The Department of Community Health shall succeed to all rules, regulations, policies,
1960 procedures, and administrative orders of the Department of Human Resources that are in
1961 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which
1962 relate to the functions transferred to the Department of Community Health pursuant to this
1963 Code section and shall further succeed to any rights, privileges, entitlements, obligations,
1964 and duties of the Department of Human Resources that are in effect on June 30, 2009,
1965 which relate to the functions transferred to the Department of Community Health pursuant
1966 to this Code section. Such rules, regulations, policies, procedures, and administrative
1967 orders shall remain in effect until amended, repealed, superseded, or nullified by the
1968 Department of Community Health by proper authority or as otherwise provided by law.

1969 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,
1970 agreements, and other transactions entered into before July 1, 2009, by the Department of
1971 Human Resources which relate to the functions transferred to the Department of
1972 Community Health pursuant to this Code section shall continue to exist; and none of these
1973 rights, privileges, entitlements, and duties are impaired or diminished by reason of the
1974 transfer of the functions to the Department of Community Health. In all such instances,
1975 the Department of Community Health shall be substituted for the Department of Human
1976 Resources, and the Department of Community Health shall succeed to the rights and duties
1977 under such contracts, leases, agreements, and other transactions.

1978 (d) All persons employed by the Department of Human Resources in capacities which
1979 relate to the functions transferred to the Department of Community Health pursuant to this
1980 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the
1981 Department of Community Health in similar capacities, as determined by the commissioner

1982 of community health. Such employees shall be subject to the employment practices and
 1983 policies of the Department of Community Health on and after July 1, 2009, but the
 1984 compensation and benefits of such transferred employees shall not be reduced as a result
 1985 of such transfer. Employees who are subject to the rules of the State Personnel Board and
 1986 thereby under the State Merit System of Personnel Administration and who are transferred
 1987 to the department shall retain all existing rights under the State Merit System of Personnel
 1988 Administration. Retirement rights of such transferred employees existing under the
 1989 Employees' Retirement System of Georgia or other public retirement systems on June 30,
 1990 2009, shall not be impaired or interrupted by the transfer of such employees and
 1991 membership in any such retirement system shall continue in the same status possessed by
 1992 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by
 1993 said employees on June 30, 2009, shall be retained by said employees as employees of the
 1994 Department of Community Health."

1995 **SECTION 1-33.**

1996 Code Section 31-8-82 of the Official Code of Georgia Annotated, relating to reporting abuse
 1997 or exploitation of a resident in a long-term care facility, is amended by revising subsection
 1998 (a) as follows:

1999 "(a) Any:

2000 (1) Administrator, manager, physician, nurse, nurse's aide, orderly, or other employee
 2001 in a hospital or facility;

2002 (2) Medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social
 2003 worker, coroner, clergyman, police officer, pharmacist, physical therapist, or
 2004 psychologist; or

2005 (3) Employee of a public or private agency engaged in professional services to residents
 2006 or responsible for inspection of long-term care facilities

2007 who has knowledge that any resident or former resident has been abused or exploited while
 2008 residing in a long-term care facility shall immediately make a report as described in
 2009 subsection (c) of this Code section by telephone or in person to the department. In the
 2010 event that an immediate report to the department is not possible, the person shall make the
 2011 report to the appropriate law enforcement agency. Such person shall also make a written
 2012 report to the ~~Department of Human Resources~~ department within 24 hours after making the
 2013 initial report."

SECTION 1-34.

Code Section 31-8-192 of the Official Code of Georgia Annotated, relating to definitions relative to the "'Health Share' Volunteers in Medicine Act," is amended by revising subparagraph (D) of paragraph (6) as follows:

"(D) Any client or beneficiary of the department, ~~or the Department of Human Resources Services, or the Department of Behavioral Health and Developmental Disabilities~~ who voluntarily chooses to participate in a program offered or approved by the department, ~~or the Department of Human Resources Services, or the Department of Behavioral Health and Developmental Disabilities~~ and meets the program eligibility guidelines of the department, ~~or the Department of Human Resources Services, or the Department of Behavioral Health and Developmental Disabilities~~ whose family income does not exceed 200 percent of the federal poverty level as defined annually by the federal Office of Management and Budget."

SECTION 1-35.

Code Section 31-11-2 of the Official Code of Georgia Annotated, relating to definitions relative to emergency medical services, is amended by revising paragraphs (3), (5), and (6.1) as follows:

"(3) 'Ambulance provider' means an agency or company providing ambulance service which is operating under a valid license from the Emergency Health Section of the Division of Public Health of the Department of ~~Human Resources~~ Community Health."

"(5) 'Cardiac technician' means a person who, having been trained and certified as an emergency medical technician and having completed additional training in advanced cardiac life support techniques in a training course approved by the department, is so certified by the Composite State Board of Medical Examiners prior to January 1, 2002, or the Department of Human Resources (now known as the Department of Community Health for these purposes) on and after January 1, 2002."

"(6.1) 'Department' means the Department of ~~Human Resources~~ Community Health."

SECTION 1-36.

Code Section 31-11-50 of the Official Code of Georgia Annotated, relating to medical advisers relative to emergency medical services, is amended by revising subsection (a) as follows:

"(a) To enhance the provision of emergency medical care, each ambulance service shall be required to have a medical adviser. The adviser shall be a physician licensed to practice medicine in this state and subject to approval by the medical consultant of the Emergency Health Section of the Division of ~~Physical~~ Public Health of the ~~Department of Human~~

2049 ~~Resources~~ Department of Community Health. Ambulance services unable to obtain a
2050 medical adviser, due to unavailability or refusal of physicians to act as medical advisers,
2051 may request the district health director or his or her designee to act as medical adviser until
2052 the services of a physician are available."

2053 **SECTION 1-37.**

2054 Code Section 31-11-53.1 of the Official Code of Georgia Annotated, relating to automated
2055 external defibrillator program, is amended by revising paragraph (1) of subsection (b) as
2056 follows:

2057 "(1) It is recommended that all persons who have access to or use an automated external
2058 defibrillator obtain appropriate training as set forth in the ~~Rules and Regulations~~ rules and
2059 regulations of the Department of Community Health ~~Human Resources Chapter 290-5-30~~.
2060 It is further recommended that such training include at a minimum the successful
2061 completion of:

- 2062 (A) A nationally recognized health care provider/professional rescuer level
2063 cardiopulmonary resuscitation course; and
2064 (B) A department established or approved course which includes demonstrated
2065 proficiency in the use of an automated external defibrillator;"

2066 **SECTION 1-38.**

2067 Code Section 31-13-25 of the Official Code of Georgia Annotated, relating to rules,
2068 regulations, agreements, and contracts formerly under the Department of Human Resources
2069 with respect to radiation control, is amended as follows:

2070 "31-13-25.

2071 All rules and regulations, agreements, contracts, or other instruments which involve
2072 radioactive materials heretofore under the jurisdiction of the Department of Human
2073 Resources (now known as the Department of Community Health for these purposes) will,
2074 by operation of law, be assumed by the Department of Natural Resources on April 4, 1990."

2075 **SECTION 1-39.**

2076 Code Section 31-15-4 of the Official Code of Georgia Annotated, relating to a cancer control
2077 officer, is amended as follows:

2078 "31-15-4.

2079 The commissioner shall appoint a cancer control officer. The cancer control officer shall
2080 be a physician licensed to practice medicine under Chapter 34 of Title 43 and ~~must~~ shall
2081 be knowledgeable in the field of medicine covered by this chapter. He or she shall
2082 administer the cancer program for the Division of Physical Public Health of the ~~Department~~

2083 ~~of Human Resources~~ Department of Community Health in compliance with this chapter.
 2084 He or she shall be provided an office with clerical and administrative assistance to carry
 2085 out this program."

2086 SECTION 1-40.

2087 Code Section 33-21-20.1 of the Official Code of Georgia Annotated, relating to regulation
 2088 of health maintenance organizations by the commissioner of human resources, is amended
 2089 as follows:

2090 "33-21-20.1.

2091 On May 13, 2004, all health maintenance organizations meeting the requirements of
 2092 subsection (b.1) of Code Section 33-21-3 shall not be subject to regulation by the
 2093 commissioner of human resources (now known as the commissioner of community health
 2094 for these purposes). Upon the Commissioner of Insurance's determination that a health
 2095 maintenance organization no longer meets the requirements of subsection (b.1) of Code
 2096 Section 33-21-3, the Commissioner shall immediately notify the commissioner of ~~human~~
 2097 ~~resources~~ community health; and such health maintenance organization shall be subject to
 2098 regulation by the commissioner of ~~human resources~~ community health until such time as
 2099 it again meets the requirements of subsection (b.1) of Code Section 33-21-3 as determined
 2100 by the Commissioner of Insurance."

2101 SECTION 1-41.

2102 Code Section 33-24-56.3 of the Official Code of Georgia Annotated, relating to colorectal
 2103 cancer screening and testing, is amended by revising paragraph (1) of subsection (a) as
 2104 follows:

2105 "(1) 'Health benefit policy' means any individual or group plan, policy, or contract for
 2106 health care services issued, delivered, issued for delivery, executed, or renewed by an
 2107 insurer in this state on or after July 1, 2002, including, but not limited to, those contracts
 2108 executed by the Department of Community Health pursuant to paragraph (1) of
 2109 subsection ~~(f)~~(d) of Code Section ~~31-5A-4~~ 31-2-4. The term 'health benefit policy' does
 2110 not include the following limited benefit insurance policies: accident only, CHAMPUS
 2111 supplement, dental, disability income, fixed indemnity, long-term care, medicare
 2112 supplement, specified disease, vision, and nonrenewable individual policies written for
 2113 a period of less than six months."

SECTION 1-42.

Code Section 33-24-59.2 of the Official Code of Georgia Annotated, relating to insurance coverage for equipment and self-management training for individuals with diabetes, is amended by revising subsection (b) as follows:

"(b)(1) Diabetes outpatient self-management training and education as provided for in subsection (a) of this Code section shall be provided by a certified, registered, or licensed health care professional with expertise in diabetes.

(2) The office of the Commissioner of Insurance shall promulgate rules and regulations after consultation with the Department of ~~Human Resources~~ Community Health which conform to the current standards for diabetes outpatient self-management training and educational services established by the American Diabetes Association for purposes of this Code section.

(3) The office of the Commissioner of Insurance shall promulgate rules and regulations, relating to standards of diabetes care, to become effective July 1, 2002, after consultation with the Department of Human Resources (now known as the Department of Community Health for these purposes), the American Diabetes Association, and the National Institutes of Health. Such rules and regulations shall be adopted in accordance with the provisions of Code Section 33-2-9."

SECTION 1-43.

Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificates of authority required for operation of continuing care facilities, is amended as follows:

"33-45-3.

Nothing in this title or chapter shall be deemed to authorize any provider of a continuing care facility to transact any insurance business other than that of continuing care insurance or otherwise to engage in any other type of insurance unless it is authorized under a certificate of authority issued by the department under this title. Nothing in this chapter shall be construed so as to interfere with the jurisdiction of ~~the Department of Human Resources~~, the Department of Community Health, or any other regulatory body exercising authority over continuing care providers."

SECTION 1-44.

Code Section 43-10A-7 of the Official Code of Georgia Annotated, relating to licensing requirements for professional counselors, social workers, and marriage and family therapists, is amended by revising paragraphs (3) and (12) of subsection (b) as follows:

"(3)(A) Persons who, prior to July 1, 2000, engaged in the practice of a specialty as an employee of any community service board or similar entity created by general law to

provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state or any of its political subdivisions, but only when engaged in that practice as an employee of such an agency or department.

(B) Persons who engage in the practice of social work as employees of any community service board or similar entity created by general law to provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state or any of its political subdivisions, but only when engaged in that practice as employees of such community service board or similar entity, agency, or department, and persons or entities which contract to provide social work services with any community service board or similar entity or any agency or department of the state or any of its political subdivisions, but such contracting persons and entities shall only be exempt under this subparagraph when engaged in providing social work services pursuant to those contracts and shall only be exempt until January 1, 1996.

(C) Persons who engage in the practice of professional counseling as employees of privately owned correctional facilities, the Department of Corrections, Department of ~~Human Resources~~ Community Health, Department of Behavioral Health and Developmental Disabilities, Department of Human Services, any county board of health, or any community service board or similar entity created by general law to provide services to persons with disabilities, as defined in Chapter 2 of Title 37, but only when engaged in that practice as employees of such privately owned correctional facility, department, board, or entity and persons or entities which contract to provide professional counseling services with such department or county board of health, but such contracting persons and entities shall only be exempt under this subparagraph when engaged in providing professional counseling services pursuant to those contracts and shall only be exempt until January 1, 1996;"

"(12) Persons engaged in the practice of a specialty as an employee of the Division of Family and Children Services of the Department of Human ~~Resources~~ Services but only when engaged in such practice as an employee of that division;"

SECTION 1-45.

Code Section 43-26-51 of the Official Code of Georgia Annotated, relating to the purpose of the "Georgia Qualified Medication Aide Act," is amended as follows:

"43-26-51.

The purpose of this article is to protect, promote, and preserve the public health, safety, and welfare through the delegation of certain activities performed by registered professional nurses and licensed practical nurses to persons who are certified as qualified medication aides and who are employed by and working in community living arrangements established

2185 by the Department of ~~Human Resources~~ Community Health pursuant to paragraphs (15)
 2186 ~~and (16)~~ paragraph (8) of subsection ~~(b)(d)~~ of Code Section ~~37-1-20~~ 31-2-4."

2187 **SECTION 1-46.**

2188 Code Section 43-26-52 of the Official Code of Georgia Annotated, relating to definitions
 2189 relative to the "Georgia Qualified Medication Aide Act," is amended by revising paragraph
 2190 (3) as follows:

2191 "(3) 'Community living arrangement' means any residence, whether operated for profit or
 2192 not for profit, which undertakes through its ownership or management to provide or
 2193 arrange for the provision of daily personal services, support, care, or treatment exclusively
 2194 for two or more adults who are not related to the owner or administrator by blood or
 2195 marriage which is established by the Department of ~~Human Resources~~ Community Health
 2196 pursuant to paragraph ~~(16)~~(8) of subsection ~~(b)~~(d) of Code Section ~~37-1-20~~ 31-2-4 and
 2197 whose services are financially supported, in whole or part, by funds authorized through the
 2198 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~
 2199 ~~Department of Human Resources~~ Department of Behavioral Health and Developmental
 2200 Disabilities. A community living arrangement is also referred to as a 'residence.'"

2201 **SECTION 1-47.**

2202 Code Section 43-27-2 of the Official Code of Georgia Annotated, relating to the creation of
 2203 the State Board of Nursing Home Administrators, is amended as follows:

2204 "43-27-2.

2205 (a) There is created the State Board of Nursing Home Administrators, which shall consist
 2206 of 13 members, none of whom may be employees of the United States government or of
 2207 this state, and the commissioner of human ~~resources~~ services or his or her designee, who
 2208 shall serve as ex officio member of the board, and the commissioner of community health
 2209 or his or her designee, who shall serve as ex officio member of the board. The members
 2210 of the board shall be appointed by the Governor and confirmed by the Senate, as follows:

2211 (1) One member who is a licensed medical doctor in this state and who is not a nursing
 2212 home administrator or pecuniarily interested in any nursing home;

2213 (2) One member who is a registered nurse in this state and who is not a nursing home
 2214 administrator or pecuniarily interested in any nursing home;

2215 (3) One member who is an educator with a graduate degree and specializing in the field
 2216 of gerontology and who is not a nursing home administrator or pecuniarily interested in
 2217 any nursing home;

2218 (4) Three members of the public at large who are not nursing home administrators or
 2219 pecuniarily interested in any nursing home or have any connection with the nursing home

2220 industry whatsoever. Two of these three ~~public-at-large~~ public, at-large positions shall
 2221 be appointed from a list of three persons for each of these two positions submitted by the
 2222 Board of ~~Human Resources~~ Community Health. The Governor is vested with complete
 2223 discretion in appointing the third member for one of these three ~~public-at-large~~ public,
 2224 at-large positions;

2225 (5) One member who is a hospital administrator in this state, who is the holder of a
 2226 master's degree in hospital administration, and who is not a nursing home administrator
 2227 or pecuniarily interested in any nursing home; and

2228 (6) Six members, at least one of whom shall represent nonproprietary nursing homes,
 2229 who are licensed nursing home administrators in this state.

2230 (b) The term for all members shall be three years from the date of appointment. A member
 2231 may be removed as provided in Code Section 43-1-17. All vacancies shall be filled by the
 2232 Governor for the unexpired terms in accordance with the requirements for appointment to
 2233 the vacant position."

2234 **SECTION 1-48.**

2235 Code Section 43-27-5 of the Official Code of Georgia Annotated, relating to general powers
 2236 and duties of the State Board of Nursing Home Administrators, is amended by revising
 2237 paragraph (4) of subsection (a) as follows:

2238 "(4) To initiate investigations for the purpose of discovering violations by a nursing home
 2239 administrator of the rules, regulations, or statutes of the Department of Community Health
 2240 or the Department of Human ~~Resources~~ Services, provided that the board shall investigate
 2241 those violations only after revocation, limitation, or restriction of participation of the
 2242 nursing home of which such individual is the administrator in the medical assistance
 2243 program or the license issued by the Department of ~~Human Resources~~ Community Health
 2244 and make written findings as to the causes of the alleged violations;"

2245 **SECTION 1-49.**

2246 Code Section 45-9-1 of the Official Code of Georgia Annotated, relating to general
 2247 provisions relative to insuring and indemnification of state officers and employees, is
 2248 amended by revising subsection (c) as follows:

2249 "(c) For the purpose of this article, the term 'agency' shall specifically include, but shall not
 2250 be limited to, public retirement systems of state-wide application established by the laws
 2251 of this state, but shall not include counties or municipalities; provided, however, that the
 2252 employees of community service boards, county departments of health, and county
 2253 departments of family and children services as well as the members of the boards of said
 2254 departments shall be considered to be state employees or officials for the purpose of this

2255 article. In order to facilitate the administration of liability coverage or other insurance
 2256 coverages provided the community service boards, ~~county departments of health, and~~
 2257 ~~county departments of family and children services,~~ the Department of ~~Human Resources~~
 2258 Behavioral Health and Developmental Disabilities ~~must~~ shall designate a central office
 2259 which ~~will~~ shall be responsible for obtaining, submitting, and collecting all underwriting
 2260 information and insurance premiums requested and assessed by the Department of
 2261 Administrative Services. In order to facilitate the administration of liability coverage or
 2262 other insurance coverages provided county departments of family and children services,
 2263 the Department of Human Services shall designate a central office which shall be
 2264 responsible for obtaining, submitting, and collecting all underwriting information and
 2265 insurance premiums requested and assessed by the Department of Administrative Services.
 2266 In order to facilitate the administration of liability coverage or other insurance coverages
 2267 provided county departments of health, the Department of Community Health shall
 2268 designate a central office which shall be responsible for obtaining, submitting, and
 2269 collecting all underwriting information and insurance premiums requested and assessed by
 2270 the Department of Administrative Services."

2271 SECTION 1-50.

2272 Code Section 45-9-110 of the Official Code of Georgia Annotated, relating to authorization
 2273 for consolidation of unemployment compensation claim matters under the commissioner of
 2274 administrative services, is amended by revising subsection (d) as follows:

2275 "(d) The commissioner of administrative services shall have the authority to provide
 2276 unemployment compensation benefits insurance to all of the county departments of health,
 2277 county departments of family and children services, and community service boards. The
 2278 commissioner of ~~human resources~~ community health shall establish a procedure to provide
 2279 the Department of Administrative Services all of the underwriting information required,
 2280 including but not limited to payroll data each quarter for the service centers, and shall
 2281 collect the unemployment premium from ~~such boards and departments~~ county departments
 2282 of health and remit the premium to the Department of Administrative Services. The
 2283 commissioner of human services shall establish a procedure to provide the Department of
 2284 Administrative Services all of the underwriting information required, including but not
 2285 limited to payroll data each quarter for the service centers, and shall collect the
 2286 unemployment premium from county departments of family and children services and
 2287 remit the premium to the Department of Administrative Services. The commissioner of
 2288 behavioral health and developmental disabilities shall establish a procedure to provide the
 2289 Department of Administrative Services all of the underwriting information required,
 2290 including but not limited to payroll data each quarter for the service centers, and shall

2291 collect the unemployment premium from community service boards and remit the premium
 2292 to the Department of Administrative Services. All of the county departments of health,
 2293 county departments of family and children services, and community service boards shall
 2294 participate in such unemployment compensation benefit insurance program."

2295 **SECTION 1-51.**

2296 Code Section 46-4-154 of the Official Code of Georgia Annotated, relating to notice of
 2297 election, unbundling, rates, application requirements, and surcharge on interruptibles under
 2298 the "Natural Gas Competition and Deregulation Act," is amended by revising subsection (e)
 2299 as follows:

2300 "(e) The commission shall establish a surcharge on all customers receiving interruptible
 2301 service over the electing distribution company's distribution system sufficient to ensure that
 2302 such customers will pay an equitable share of the cost of the distribution system over which
 2303 such customers receive service. The commission is authorized to direct the electing
 2304 distribution company or the marketers to collect such surcharge directly from the
 2305 customers. Such surcharge shall be paid promptly upon receipt into the universal service
 2306 fund. This surcharge shall not be applied to any hospital that has a medicare and Medicaid
 2307 payor mix of at least 30 percent and has uncompensated writeoffs for the provision of
 2308 charity, indigent, and free health care services of not less than 5 percent of such hospital's
 2309 annual operating expenses based on the annual hospital surveys by ~~the Division of Health~~
 2310 ~~Planning~~ of the Department of Community Health. This surcharge shall not be applied to
 2311 any institution or property enumerated in Code Section 50-16-3, or administered or
 2312 regulated under authority granted by Code Section 42-2-5 or 49-4A-6 or by Chapter 9 of
 2313 Title 50."

2314 **SECTION 1-52.**

2315 Code Section 49-4-142 of the Official Code of Georgia Annotated, relating to adoption and
 2316 administration of a state plan for medical assistance by the Department of Community
 2317 Health, is amended by revising subsection (b) as follows:

2318 "(b) The department shall, not later than June 1, 1986, implement a modification of the
 2319 state plan for medical assistance or any affected rules or regulations of the department,
 2320 which modification will allow supplementation by relatives or other persons for a private
 2321 room or private sitter or both for a recipient of medical assistance in a nursing home. ~~The~~
 2322 ~~Department of Human Resources shall likewise modify any affected rules and regulations~~
 2323 ~~of the Department of Human Resources.~~ The modification to the plan or to any affected
 2324 rules and regulations shall be effective unless and until federal authorities rule that such

modification is out of compliance with federal regulations. Such modification of the state plan for medical assistance or rules and regulations:

(1) Shall provide that a provider of nursing home services in either a skilled care facility or an intermediate care facility shall be obligated to provide a recipient of medical assistance only semiprivate accommodations which meet the other requirements of appropriate regulations;

(2) Shall provide that at no time can more than 10 percent of a skilled care or intermediate care facility's rooms be used for Medicaid recipients for whom a private room supplementation has been made;

(3) Shall provide that payments made by relatives or other persons to a provider of medical assistance for the specific stated purpose of paying the additional costs for a private room or private sitter or both for a recipient of medical assistance in a skilled care facility or intermediate care facility shall not be considered as income when determining the amount of patient liability toward vendor payments; provided, however, that the department's entitlement to payments made by legally liable third parties shall not be diminished by this modification of the state plan;

(4) Shall provide that no provider of medical assistance shall discriminate against a recipient of medical assistance who does not have a relative or other person who is willing and able to provide supplementation; but the provision of a private room or private sitter to a recipient when supplementation is provided shall not constitute discrimination against other recipients;

(5) Shall provide that no recipient who is transferred to or admitted to a private room because of a shortage of beds in semiprivate rooms shall be discharged because the recipient does not have a relative or other person who is willing and able to provide supplementation; and

(6) May provide that the rate charged by the provider of medical assistance to the relative or other person providing supplementation for a private room for a recipient shall not exceed the difference between the maximum rate charged by the provider for a private room to or for a private pay patient and the amount which the provider receives or will receive from the department as reimbursement for otherwise providing for the recipient's care in a semiprivate room."

SECTION 1-53.

Code Section 49-4-153 of the Official Code of Georgia Annotated, relating to administrative hearings and appeals under Medicaid, is amended by revising subsection (d) as follows:

"(d) All contested cases involving the imposition of a remedial or punitive measure against a nursing facility by the Department of Community Health shall be conducted in the

2361 manner provided for in subsection (l) of Code Section ~~31-2-6~~ 31-2-11, but only if such
2362 remedial or punitive measure is based upon findings made by the Department of ~~Human~~
2363 ~~Resources~~ Community Health in its capacity as the state survey agency for the Georgia
2364 Medicaid program."

2365

2366 **SECTION 1-54.**

2367 Code Section 49-4-154 of the Official Code of Georgia Annotated, relating to powers and
2368 duties retained by the Department of Human Resources with respect to Medicaid, is amended
2369 as follows:

2370 "49-4-154.

2371 (a) The status, position, and rights of persons transferred from the Department of Human
2372 Resources (now known as the Department of Community Health for these purposes) to the
2373 Department of Medical Assistance pursuant to Ga. L. 1977, p. 384 shall not be affected by
2374 the transfer, in and of itself; and such persons shall retain, inter alia, all rights of rank or
2375 grade; rights to vacation, sick pay, and leave; rights under any retirement plan; and any
2376 other rights under any law or administrative policy.

2377 (b) The Department of Human Resources (now known as the Department of Community
2378 Health for these purposes) shall retain, in accordance with terms of the state plan, the
2379 functions, and all tangible things and employees relating thereto, of:

2380 (1) Establishing and maintaining certain standards for certain institutions and agencies
2381 seeking to become or remain providers and shall finally determine and certify whether
2382 such institutions and agencies meet such standards;

2383 (2) Determining and certifying the eligibility of certain applicants for and recipients of
2384 medical assistance; and

2385 (3) Prescribing regulations to require that applicants for medical assistance be given clear
2386 and easily understandable notice that all books, papers, records, and memoranda of the
2387 provider relating to the provision of medical assistance to the applicant will be made
2388 available, upon request, to the commissioner of medical assistance or his representative
2389 and that, by accepting medical assistance, the applicant thereby consents to the providing
2390 of such books, papers, records, and memoranda to the commissioner of medical
2391 assistance or his representative."

2392 **SECTION 1-55.**

2393 Code Section 49-4-155 of the Official Code of Georgia Annotated, relating to the
2394 Department of Community Health succeeding to existing rules, regulations, policies,
2395 procedures, and administrative orders with respect to Medicaid, is amended as follows:

2396 "49-4-155.
 2397 The Department of Community Health shall succeed to all the rules, regulations, policies,
 2398 procedures, and administrative orders of the Department of Human Resources (now known
 2399 as the Department of Human Services) transferred to the Department of Medical Assistance
 2400 pursuant to the previously existing provisions of this Code section and that are in effect on
 2401 June 30, 1999, and shall further succeed to any rights, privileges, entitlements, obligations,
 2402 and duties of the Department of Human Resources (now known as the Department of
 2403 Human Services) that are in effect on June 30, 1999, to which the Department of Medical
 2404 Assistance succeeded pursuant to the previously existing provisions of Code Section
 2405 49-4-156."

2406 **SECTION 1-56.**

2407 Code Section 49-6-84 of the Official Code of Georgia Annotated, relating to the authority
 2408 of the Department of Human Resources to promulgate rules and regulations under the "Adult
 2409 Day Center for Aging Adults Licensure Act," is amended as follows:

2410 "49-6-84.
 2411 The department is authorized to promulgate rules and regulations to implement this article
 2412 utilizing the public rule-making process to elicit input from consumers, providers, and
 2413 advocates. The department is further authorized to issue, deny, suspend, or revoke licenses
 2414 or take other enforcement actions against licensees or applicants as provided in Code
 2415 Section ~~31-2-6~~ 31-2-11. All rules and regulations and any enforcement actions initiated
 2416 by the department shall comply with the requirements of Chapter 13 of Title 50, the
 2417 'Georgia Administrative Procedure Act.'"

2418 **SECTION 1-57.**

2419 Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to applicability
 2420 of the "Georgia Administrative Procedure Act," is amended by revising subsection (a) as
 2421 follows:

2422 "(a) In addition to those agencies expressly exempted from the operation of this chapter
 2423 under paragraph (1) of Code Section 50-13-2, this article shall not apply to the
 2424 Commissioner of Agriculture, the Public Service Commission, the ~~Health Planning Review~~
 2425 ~~Board~~ Certificate of Need Appeal Panel, or the Department of Community Health, unless
 2426 specifically provided otherwise for certain programs or in relation to specific laws, or to
 2427 the Department of Labor with respect to unemployment insurance benefit hearings
 2428 conducted under the authority of Chapter 8 of Title 34. Such exclusion does not prohibit
 2429 such office or agencies from contracting with the Office of State Administrative Hearings
 2430 on a case-by-case basis."

SECTION 1-58.

Code Section 50-16-3 of the Official Code of Georgia Annotated, relating to property of state boards and departments, is amended by revising paragraph (2) as follows:

"(2) The several institutions operated by the Department of Human ~~Resources~~ Services, the Department of Community Health, or the Department of Behavioral Health and Developmental Disabilities, including all real and personal property belonging to the several institutions or used in connection therewith, and all other property conveyed to ~~the~~ any such department for the use of any of the institutions or conveyed to any of the boards of trustees of which ~~the~~ such department is the successor or to any of the institutions under its control;"

PART II

Department of Human Services.

SECTION 2-1.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by revising Chapters 1 and 2, relating to general provisions on social services and the Department of Human Resources, respectively, as follows:

"CHAPTER 1

49-1-1.

As used in this title, the term:

(1) 'Board' means the Board of Human ~~Resources~~ Services.

(2) 'Commissioner' means the commissioner of human ~~resources~~ services.

(3) 'County board' means a county or district board of family and children services.

(4) 'County department' means a county or district department of family and children services.

(5) 'County director' means the director of a county or district department of family and children services.

(6) 'Department' means the Department of Human ~~Resources~~ Services.

49-1-2.

All rules and regulations made by the Department of Human ~~Resources~~ Services shall be binding on the counties and shall be complied with by the respective county departments.

49-1-3.

~~(a) Notwithstanding any other provisions of law, the Governor shall have the power by executive order to direct and implement such internal organization of the Department of Human Resources as he may determine necessary to improve the management and administration of the functions vested in the department, including the power to allocate within such organization the executive authority described in Code Section 49-2-1 with respect to any or any grouping of the functions of the department. For these purposes, the Governor shall have the power by executive order to redefine the department's substate structure and to direct the establishment of district health and welfare organizations, as respectively described and with such powers and duties as set forth in Code Sections 31-3-15 and 49-3-1. The district director of a health district shall be a licensed physician. The district director and other executive staff of district health and welfare organizations shall hereafter be appointed by the department, provided that the department shall not appoint as a director of any such organization any person whose appointment is not approved by a majority of the respective district board concerned in a meeting of such board called for that purpose.~~

~~(b) Any other provisions of this Code section to the contrary notwithstanding, any such reorganization plan shall provide for a county department of family and children services, a county board of family and children services, and a county director of family and children services in each county of this state. The county director shall be the executive officer of the county department who shall be responsible for operations and personnel. In addition to such other powers and authorities which may be delegated to county departments of family and children services, each county board and director of family and children services shall have the same powers, duties, and bond requirements as provided in Code Sections 49-3-2 through 49-3-5.~~

~~(c) Notwithstanding any other provision of this Code section, the Governor shall not have the power by executive order to abolish any county board.~~

~~(d) The Governor's power under this Code section shall expire on December 31, 1976, but the organization accomplished by executive order hereunder shall continue until altered in the manner provided by law. Reserved.~~

49-1-4.

No individual, supervisor, or member of the Board of Human ~~Resources~~ Services or the county or district boards of family and children services having to do with the administration of this title shall be authorized or permitted, directly or indirectly, to sell supplies or other items of any kind or character to any of the institutions to be benefited by this title.

2497 49-1-5.

2498 (a) In order that the public welfare laws of this state may be better enforced, the Governor
2499 is authorized and empowered to suspend any member of any county board, any county
2500 director, or any employee or official of the department whenever he or she shall find that
2501 good cause for such suspension exists. Such suspension shall be by executive order of the
2502 Governor, which shall state the reason therefor. A copy of such order of suspension shall
2503 be sent to the person so suspended within five days after it is issued, by registered or
2504 certified mail or statutory overnight delivery, return receipt requested, together with a
2505 notice from the Governor or his or her executive secretary that the suspended person may
2506 be heard before the Governor at such time as may be stated in the notice, which hearing
2507 shall be not less than ten nor more than 20 days from the date of the notice. Upon such
2508 hearing, if the Governor shall find that good cause for the removal of the person so
2509 suspended exists, he or she is authorized and empowered to remove such member of any
2510 county board, any county director, or any employee or official in the department;
2511 whereupon, such person's tenure of office or employment shall terminate, subject to the
2512 right of appeal granted to any employee under the State Merit System of Personnel
2513 Administration by Chapter 20 of Title 45, and the vacancy shall be filled as provided by
2514 law. If the Governor shall find that good cause for the removal of such person does not
2515 exist, he or she shall, by appropriate executive order, restore him or her to duty.

2516 (b) In addition to removal by the Governor as specified in subsection (a) of this Code
2517 section, the director of the Division of Family and Children Services may terminate the
2518 employment of any county director or district director subject to any right of appeal such
2519 director may have under the State Merit System of Personnel Administration by Chapter
2520 20 of Title 45, and the vacancy shall be filled as provided by law.

2521 49-1-6.

2522 (a) Any charitable or nonprofit corporation which has been granted a charter or articles of
2523 incorporation under the laws of this state may transfer all or a part of its assets to the
2524 department upon such terms as may be agreed upon between such corporation and the
2525 department, provided such corporation shall first have obtained authority to make such
2526 transfer in accordance with this Code section.

2527 (b) Any such corporation may apply for authority to make such transfer by filing its
2528 petition with the superior court of the county in which such corporation has its principal
2529 office. Such application shall set forth the assets which the corporation desires to transfer
2530 to the department and the terms upon which it desires to transfer these assets.

2531 (c) Such corporation, once a week for four weeks prior to the filing of such petition, shall
2532 publish notice in the newspaper of the county in which is located the principal office of the

2533 corporation, such newspaper being the newspaper in which notices of sheriff's sales are
2534 advertised. The notice shall set forth the date, time, and place when such application will
2535 be presented, the court to which it will be presented, and the assets which such corporation
2536 desires to transfer to the department.

2537 (d) After a hearing, the court shall be authorized to grant the application and permit a
2538 transfer of the assets of the applicant upon terms as set out in the application or modified
2539 as the court may deem advisable, if the court considers this in the public interest; or the
2540 court may deny the application if the court deems such denial to be in the public interest.
2541 Where such corporation makes a transfer of all of its right, title, and interest in any of its
2542 assets to the department and such transfer is made pursuant to the authority of the court
2543 obtained in the manner provided for in this Code section, such transfer shall be
2544 conclusively deemed to be a proper and legal transfer.

2545 (e) Should such corporation desire to transfer all of its assets to the department, the court
2546 to which such application is presented may include in its order a provision that upon the
2547 transfer by such corporation of all of its assets to the department and upon compliance with
2548 Chapter 3 of Title 14, the charter or articles of incorporation of such corporation shall stand
2549 surrendered and the corporation dissolved.

2550 (f) Nothing contained in this Code section shall be considered as authorizing the
2551 department to accept a transfer of assets upon terms which would require the use of them
2552 by the department in a manner not authorized by law.

2553 ~~49-1-7.~~

2554 ~~The department is authorized to purchase land or lands adjacent to or near lands now under~~
2555 ~~the control of the department where, in the opinion of the department, the land is needed~~
2556 ~~for the benefit of one of the institutions under its control and management, to pay for such~~
2557 ~~land out of any funds which may be available for such purpose, and to take title to land so~~
2558 ~~purchased in the name of the State of Georgia for the use of the department.~~

2559 ~~49-1-8.~~

2560 ~~(a) The department shall sell, to the best advantage, all surplus products of the Central~~
2561 ~~State Hospital or other institutions under the control and supervision of the department and~~
2562 ~~shall apply the proceeds thereof to the maintenance of the institution from which such~~
2563 ~~surplus products are received. Should any surplus funds arise from this source, they shall~~
2564 ~~be paid into the state treasury annually, and the department shall, at the end of each quarter,~~
2565 ~~make a detailed report of all such transactions to the Governor.~~

2566 ~~(b) It is not the intention of this Code section to encourage competition in any way by the~~
2567 ~~state, its institutions, agencies, departments or branches, or other subdivisions with the~~

2568 individual, private farmers of this state, or others, in the production and sale of agricultural
2569 or industrial commodities or products in due course of commerce.

2570 ~~49-1-9~~ 49-1-7.

2571 (a) The General Assembly finds that it is in the best interest of the state to provide for
2572 programs for home delivered meals, transportation services for the elderly, and preschool
2573 children with special needs, including but not limited to disabled children, troubled
2574 children, school readiness programs, and other similar needs for the benefit of the citizens
2575 of Georgia. In addition to and as a supplement to traditional financing mechanisms for
2576 such programs, it is the policy of this state to enable and encourage citizens voluntarily to
2577 support such programs.

2578 (b) To support programs for home delivered meals, transportation services for the elderly,
2579 and preschool children with special needs which programs have been established or
2580 approved by the department or the Department of Community Health, the department may,
2581 without limitation, promote and solicit voluntary contributions through the income tax
2582 return contribution mechanism established in subsection (f) of this Code section, through
2583 offers to match contributions by any person with moneys appropriated or contributed to the
2584 department or the Department of Community Health for such programs, or through any
2585 fund raising or other promotional techniques deemed appropriate by the department or the
2586 Department of Community Health.

2587 (c) There is established a special fund to be known as the 'Home Delivered Meals,
2588 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.'
2589 This fund shall consist of all moneys contributed under subsection (b) of this Code section,
2590 all moneys transferred to the department under subsection (f) of this Code section, and any
2591 other moneys contributed to this fund or to the home delivered meals, transportation
2592 services for the elderly, or preschool children with special needs programs of the
2593 department or the Department of Community Health and all interest thereon. All balances
2594 in the fund shall be deposited in an interest-bearing account identifying the fund and shall
2595 be carried forward each year so that no part thereof may be deposited in the general
2596 treasury. The fund shall be administered and the moneys held in the fund shall be
2597 expended by the department through the ~~Office~~ Division of Aging Services in furtherance
2598 of home delivered meals and transportation services to the elderly programs and by the
2599 ~~department~~ Department of Community Health in furtherance of preschool children with
2600 special needs programs.

2601 (d) Following the transmittal of contributions to the department for deposit in the fund
2602 pursuant to subsection (f) of this Code section, the expenditure of moneys in the fund shall
2603 be allocated as follows:

2604 (1) Fifty percent of the contributions to the fund shall be used for home delivered meals
2605 and transportation services to the elderly programs; and

2606 (2) Fifty percent of the contributions to the fund shall be transferred to the Department
2607 of Community Health to be used for preschool children with special needs programs.

2608 (e) Contributions to the fund shall be deemed supplemental to and shall in no way supplant
2609 funding that would otherwise be appropriated for these purposes. Contributions shall only
2610 be used for benefits and services and shall not be used for personnel or administrative
2611 positions. The department and the Department of Community Health shall each prepare,
2612 by February 1 of each year, an accounting of the funds received and expended from the
2613 fund and a review and evaluation of all expended moneys of the fund. The ~~report~~ reports
2614 shall be made available to the Governor, the Lieutenant Governor, the Speaker of the
2615 House of Representatives, to the members of the Board of Human ~~Resources~~ Services, and,
2616 upon request, to members of the public.

2617 (f)(1) Unless an earlier date is deemed feasible and established by the Governor, each
2618 Georgia income tax return form for taxable years beginning on or after January 1, 1993,
2619 shall contain appropriate language, to be determined by the state revenue commissioner,
2620 offering the taxpayer the opportunity to contribute to the Home Delivered Meals,
2621 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund
2622 established in subsection (c) of this Code section by either donating all or any part of any
2623 tax refund due, by authorizing a reduction in the refund check otherwise payable, or by
2624 contributing any amount over and above any amount of tax owed by adding that amount
2625 to the taxpayer's payment. The instructions accompanying the income tax return form
2626 shall contain a description of the purposes for which this fund was established and the
2627 intended use of moneys received from the contributions. Each taxpayer required to file
2628 a state income tax return who desires to contribute to such fund may designate such
2629 contribution as provided in this Code section on the appropriate income tax return form.

2630 (2) The Department of Revenue shall determine annually the total amount so contributed,
2631 shall withhold therefrom a reasonable amount for administering this voluntary
2632 contribution program, and shall transmit the balance to the department for deposit in the
2633 fund established in subsection (c) of this Code section; provided, however, the amount
2634 retained for administrative costs, including implementation costs, shall not exceed
2635 \$50,000.00 per year. If, in any tax year, the administrative costs of the Department of
2636 Revenue for collecting contributions pursuant to this Code section exceed the sum of
2637 such contributions, the administrative costs which the Department of Revenue is
2638 authorized to withhold from such contributions shall not exceed the sum of such
2639 contributions.

CHAPTER 2

ARTICLE 1

49-2-1.

(a) There is created a Department of Human ~~Resources~~ Services. The powers, functions, and duties of the Department of Human Resources as they existed on June 30, 2009, except for those relating to the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the Division of Public Health, and the Office of Regulatory Services, unless specifically transferred or reassigned to the Department of Community Health or the Department of Behavioral Health and Developmental Disabilities, are transferred to the Department of Human Services effective July 1, 2009, and the Department of Human Resources shall be reconstituted as the Department of Human Services effective July 1, 2009.

(b) There is ~~also~~ created the position of commissioner of human ~~resources~~ services. The commissioner shall be the chief administrative officer of the department and be both appointed and removed by the board, subject to the approval of the Governor. Subject to the general policy established by the board, the commissioner shall supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department.

49-2-2.

(a) There is created a Board of Human ~~Resources~~ Services, as of July 1, 2009, which shall establish the general policy to be followed by the Department of Human ~~Resources~~ Services created by Code Section 49-2-1. The powers, functions, and duties of the Board of Human Resources as they existed on June 30, 2009, except for those relating to the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the Division of Public Health, and the Office of Regulatory Services, unless specifically transferred or reassigned to the Board of Community Health or the Board of Behavioral Health and Developmental Disabilities, are transferred to the Board of Human Services effective July 1, 2009, and the Board of Human Resources as it existed on June 30, 2009, shall be abolished effective July 1, 2009. The board shall consist of ~~one member from each congressional district in the state and four at-large~~ nine members appointed by the Governor and confirmed by the Senate. ~~For this purpose, the congressional districts used shall be those specified in Code Section 21-1-2, as amended by Act No. 2EX11 of the second extraordinary 2001 session of the General Assembly and as thereafter amended by law. Seven members of the board shall be engaged professionally in rendering health services, and at least five of these seven members shall be licensed to practice medicine pursuant to Chapter 34 of Title 43. In appointing members to the board, the Governor shall~~

2675 ~~take into account to the extent practicable all areas and functions encompassed by the~~
2676 ~~department.~~

2677 (b) The Governor shall designate the initial terms of the members of the board as follows:
2678 three members shall be appointed for one year; three members shall be appointed for two
2679 years; and three members shall be appointed for three years; ~~three members shall be~~
2680 ~~appointed for four years, and the remaining members shall be appointed for five years.~~
2681 Thereafter, all succeeding appointments shall be for ~~five-year~~ three-year terms from the
2682 expiration of the previous term.

2683 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner
2684 as the appointment to the position on the board which becomes vacant, and the appointment
2685 shall be submitted to the Senate for confirmation at the next session of the General
2686 Assembly. An appointment to fill a vacancy, other than by expiration of a term of office,
2687 shall be for the balance of the unexpired term.

2688 (d) Members of the board may be removed from office under the same conditions for
2689 removal from office of members of professional licensing boards provided in Code Section
2690 43-1-17.

2691 ~~(d)~~(e) There shall be a ~~chairman~~ chairperson of the board, elected by and from the
2692 membership of the board, who shall be the presiding officer of the board.

2693 ~~(e) Those members engaged in rendering health services shall comprise no more than~~
2694 ~~seven members of the total membership of the board.~~

2695 (f) The members of the board shall receive per diem and expenses as shall be set and
2696 approved by the Office of Planning and Budget and in conformance with rates and
2697 allowances set for members of other state boards.

2698 49-2-2.1.

2699 (a) The Department of Human Services shall succeed to all rules, regulations, policies,
2700 procedures, and administrative orders of the Department of Human Resources that are in
2701 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which
2702 relate to the functions transferred to the Department of Human Services pursuant to Code
2703 Section 49-2-1 and shall further succeed to any rights, privileges, entitlements, obligations,
2704 and duties of the Department of Human Resources that are in effect on June 30, 2009,
2705 which relate to the functions transferred to the Department of Human Services pursuant to
2706 Code Section 49-2-1. Such rules, regulations, policies, procedures, and administrative
2707 orders shall remain in effect until amended, repealed, superseded, or nullified by the
2708 Department of Human Services by proper authority or as otherwise provided by law.

2709 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,
2710 agreements, and other transactions entered into before July 1, 2009, by the Department of

2711 Human Resources which relate to the functions transferred to the Department of Human
2712 Services pursuant to Code Section 49-2-1 shall continue to exist; and none of these rights,
2713 privileges, entitlements, and duties are impaired or diminished by reason of the transfer of
2714 the functions to the Department of Human Services. In all such instances, the Department
2715 of Human Services shall be substituted for the Department of Human Resources, and the
2716 Department of Human Services shall succeed to the rights and duties under such contracts,
2717 leases, agreements, and other transactions.

2718 (c) All persons employed by the Department of Human Resources in capacities which
2719 relate to the functions transferred to the Department of Human Services pursuant to Code
2720 Section 49-2-1 on June 30, 2009, shall, on July 1, 2009, become employees of the
2721 Department of Human Services in similar capacities, as determined by the commissioner
2722 of human services. Such employees shall be subject to the employment practices and
2723 policies of the Department of Human Services on and after July 1, 2009, but the
2724 compensation and benefits of such transferred employees shall not be reduced as a result
2725 of such transfer. Employees who are subject to the rules of the State Personnel Board and
2726 thereby under the State Merit System of Personnel Administration and who are transferred
2727 to the department shall retain all existing rights under the State Merit System of Personnel
2728 Administration. Retirement rights of such transferred employees existing under the
2729 Employees' Retirement System of Georgia or other public retirement systems on June 30,
2730 2009, shall not be impaired or interrupted by the transfer of such employees and
2731 membership in any such retirement system shall continue in the same status possessed by
2732 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by
2733 said employees on June 30, 2009, shall be retained by said employees as employees of the
2734 Department of Human Services.

2735 (d) On July 1, 2009, the Department of Human Services shall receive custody of the state
2736 owned real property in the custody of the Department of Human Resources on June 30,
2737 2009, and which pertains to the functions transferred to the Department of Human Services
2738 pursuant to Code Section 49-2-1.

2739 49-2-3.

2740 (a) ~~Reserved.~~

2741 ~~(b)~~ The policy-making functions of the State Board for Children and Youth, contained in
2742 Ga. L. 1963, p. 81, are vested in the Board of Human ~~Resources~~ Services.

2743 ~~(c)~~(b) The policy-making functions of the Commission on Aging, created in Ga. L. 1962,
2744 p. 604, are vested in the Board of Human ~~Resources~~ Services.

2745 49-2-4.

2746 There shall be created in the department such divisions as may be found necessary for its
2747 effective operation. The commissioner shall have the power to allocate and reallocate
2748 functions among the divisions within the department.

2749 49-2-5.

2750 The department is declared to be an institution of the state for which the powers of taxation
2751 over the whole state may be exercised, and the department is empowered and authorized
2752 to administer, expend, and disburse funds appropriated to it and allocated to it by the
2753 General Assembly, the respective counties of the state, and the United States, through its
2754 appropriate agencies and instrumentalities for the purpose of distributing old-age benefits
2755 and all other benefits as provided in this title.

2756 49-2-6.

2757 (a) The department shall administer or supervise all county departments of the state as
2758 provided in Chapter 3 of this title.

2759 (b) The department shall:

2760 (1) Administer or supervise:

2761 (A) All categories of public assistance established under Code Section 49-4-3;

2762 (B) The operation of state charitable and eleemosynary institutions;

2763 (C) Agencies and institutions caring for dependent or mentally or physically disabled
2764 or aged adults; and

2765 (D) Such other welfare activities or services as may be vested in it;

2766 ~~(2) Cooperate in the supervision of all correctional activities, including the operation of~~
2767 ~~all the penal and correctional institutions of the state, together with parole, supervising~~
2768 ~~of probation services, segregation of first offenders, and the inspection of local jails;~~

2769 ~~(3)~~ Provide services to county governments, including the organization and supervision
2770 of county departments for the effective administration of welfare functions and the
2771 compilation of statistics and necessary information relative to public welfare problems
2772 throughout the state;

2773 ~~(4)~~(3) Prescribe qualifications and salary standards for welfare personnel in state and
2774 county departments, subject to Chapter 20 of Title 45;

2775 ~~(5)~~(4) Assist other state and federal departments, agencies, and institutions, when so
2776 requested, by performing services in conformity with the purposes of this title;

2777 ~~(6)~~(5) Act as the agent of the federal government in welfare matters of mutual concern
2778 in conformity with this title and the administration of any federal funds granted to the
2779 state to aid in the furtherance of any functions of the department;

2780 ~~(7)~~(6) Under rules and regulations prescribed by the board, designate county and district
2781 departments to serve as agents in the performance of all state welfare activities in the
2782 counties or districts;

2783 ~~(8)~~(7) Have the right to designate private institutions as state institutions; to contract with
2784 such private institutions for such activities, in carrying out this title, as the department
2785 may deem necessary from time to time; and to exercise such supervision and cooperation
2786 in the operation of such designated private institutions as the department may deem
2787 necessary;

2788 ~~(9)~~(8) Have the right to accept and execute gifts or donations for welfare purposes, as
2789 may be prescribed by the donors thereof;

2790 ~~(10)~~(9) Have authority to delegate in whole or in part the operation of any institution or
2791 other activity of the department to any other appropriate department or agency of the
2792 state, county, or municipal governments; and to contract with and cooperate with such
2793 departments or subdivisions in any manner proper for carrying out the purposes of this
2794 title; and

2795 ~~(11)~~ Make provision for meeting the cost of hospital care of persons eligible for public
2796 assistance to the extent that federal matching funds are available for such expenditures
2797 for hospital care. To accomplish this purpose, the department is authorized to pay from
2798 funds appropriated for the purposes of this title the amount required under this paragraph
2799 into a trust fund account which shall be available for disbursement for the cost of hospital
2800 care of public assistance recipients. The commissioner, subject to the approval of the
2801 Office of Planning and Budget, on the basis of the funds appropriated in any year, shall
2802 estimate the scope of hospital care available to public assistance recipients and the
2803 approximate per capita cost of such care. Monthly payments into the trust fund for
2804 hospital care shall be made on behalf of each public assistance recipient and such
2805 payments shall be deemed encumbered for assistance payable. Ledger accounts
2806 reflecting payments into and out of the hospital care fund shall be maintained for each of
2807 the categories of public assistance established under Code Section 49-4-3. The balance
2808 of state funds in such trust fund for the payment of hospital costs in an amount not to
2809 exceed the amount of federal funds held in the trust fund by the department available for
2810 expenditure under this paragraph shall be deemed encumbered and held in trust for the
2811 payment of the costs of hospital care and shall be rebudgeted for this purpose on each
2812 quarterly budget required under the laws governing the expenditure of state funds. The
2813 state auditor shall audit the funds in the trust fund established under this paragraph in the
2814 same manner that any other funds disbursed by the department are audited; and

2815 ~~(12)~~(10) Administer such programs and provide such services as may be appropriate and
2816 necessary to strengthen family life and help needy individuals attain the maximum

2817 economic and personal independence of which they are capable, including services to
2818 applicants and recipients of old-age assistance to help them attain self-care, provided that
2819 the costs incurred by the county departments in administering this Code section in
2820 conjunction with the public assistance programs administered by the department shall be
2821 deemed to be administrative expenses.

2822 49-2-7.

2823 (a) The functions, duties, and authority of the Board of Public Welfare, established by Ga.
2824 L. 1919, p. 222, as amended, as transferred and vested in the Board of Control of
2825 Eleemosynary Institutions by Ga. L. 1931, p. 7, Section 44A, are vested in the Department
2826 of Human ~~Resources~~ Services.

2827 (b) The functions, duties, and authority of the Department of Family and Children
2828 Services, created in Ga. L. 1937, p. 355, as amended, are vested in the Department of
2829 Human ~~Resources~~ Services.

2830 (c) The functions of the State Board for Children and Youth, created in Ga. L. 1963, p. 81,
2831 except for the policy-making functions transferred to the Board of Human Resources, are
2832 vested in the Department of Human ~~Resources~~ Services.

2833 (d) ~~Reserved~~.

2834 ~~(e)~~ The functions, duties, and authority of the State Commission on Aging, created in Ga.
2835 L. 1962, p. 602, except the policy-making functions transferred to the Board of Human
2836 ~~Resources~~ Services, are vested in the Department of Human ~~Resources~~ Services.

2837 49-2-8.

2838 ~~The five members of the board who are licensed to practice medicine pursuant to Chapter~~
2839 ~~34 of Title 43 shall pass upon and approve the professional qualifications of all physicians~~
2840 ~~and medical doctors employed by the department.~~ Reserved.

2841 49-2-9.

2842 In administering any funds appropriated or made available to the department for welfare
2843 purposes, the department shall have the power:

2844 (1) To make use of all local processes to enforce the minimum standards prescribed
2845 under or pursuant to the laws providing for grants-in-aid; and

2846 (2) To administer and disburse any and all funds which may be allocated by any
2847 municipality of the state or private organization or society for such purposes as may be
2848 designated by such municipality or other agency. The department may use a reasonable
2849 percentage of such funds for administrative costs, not to exceed 10 percent of the total
2850 sum administered.

2851 49-2-10.

2852 For the purpose of carrying out the duties and obligations of the department for
2853 performance of welfare services of the state, for administrative costs, for matching such
2854 federal funds as may be available for all of the aforesaid services, for the purpose of
2855 establishing an equalization fund to be used in assisting those counties which may be
2856 unable otherwise to bear their proportionate share of the expenses of administration and of
2857 dispensing the benefits provided for under this title, and for dispensing all of the benefits
2858 provided for under this title, the General Assembly shall make appropriations out of the
2859 general fund of the state or otherwise for the various and separate activities of the
2860 department. All funds appropriated or allocated to the department or to the county
2861 departments by the General Assembly, the fiscal authorities of the respective counties, and
2862 by the federal government through its appropriate agencies and instrumentalities are
2863 declared to be funds provided for a public purpose; and all appropriations provided for in
2864 this Code section and hereafter may be expended and distributed by the department for the
2865 purposes provided for under this title.

2866 49-2-11.

2867 (a) Notwithstanding any provision in this title to the contrary, particularly Articles 2, 3,
2868 and 5 of Chapter 4 of this title, nothing therein contained shall be construed to prevent the
2869 acceptance of more than 50 percent federal matching funds. The department may accept
2870 and disburse the maximum percentage of federal grant-in-aid funds made available to this
2871 state by the federal government under any formula of variable grants or other formula for
2872 the granting of federal grants-in-aid.

2873 (b) The department is authorized to comply with the requirements prescribed by Congress
2874 as conditions to federal grants.

2875 (c) To the end of empowering the department to comply with federal requirements and to
2876 effectuate the purposes of grant-in-aid welfare programs, the board is authorized to
2877 promulgate all necessary rules and regulations and the department is authorized to do all
2878 things necessary and proper for the securing of the maximum amount of such federal
2879 grants.

2880 (d) In the event that Congress appropriates funds for grants-in-aid to the state governments
2881 for the purpose of assisting them in the operation of general assistance programs, medical
2882 assistance programs, or any other welfare programs, the department is authorized to
2883 cooperate with the federal government in such programs, to accept funds from the federal
2884 government in the maximum amounts made available, to disburse them, and to comply
2885 with all requirements of the federal government necessary for the securing of such
2886 grant-in-aid funds.

2887 (e) Any state funds which are made available by appropriation to the department for
2888 matching federal funds shall be available to supply the state portion of expenditures for
2889 general assistance programs, medical assistance programs, or any other type welfare
2890 programs provided for by the federal government which benefit the citizens or residents
2891 of this state.

2892 (f) Notwithstanding subsections (a) through (e) of this Code section, the Department of
2893 Community Health shall be the single state agency for the administration of the state
2894 medical assistance plan.

2895 49-2-12.

2896 (a) All divisions and sections within the department shall make an inventory of all the
2897 various vehicles to which the department holds title and shall investigate their utilization
2898 patterns in order to establish and develop a consolidated and coordinated transportation
2899 plan for the various human services programs of the department, including, but not limited
2900 to, those programs relating to the aged and to the mentally and physically disabled.

2901 (b) Other departments and agencies of the state shall cooperate with the Department of
2902 Human ~~Resources~~ Services in mutually beneficial agreements regarding the establishment
2903 and development of a coordinated transportation plan involving various vehicles to which
2904 the state has title.

2905 (c) The plan required to be developed under this Code section shall identify the fully
2906 allocated costs of the transportation component of their services and take into consideration
2907 various limitations on the expenditure of federal funds which may arise in any consolidated
2908 or coordinated transportation system. No later than June 30, 1980, a preliminary
2909 transportation plan shall be submitted by the department to the Human Relations and Aging
2910 Committee of the House of Representatives and the Education and Youth, Aging, and
2911 ~~Human Ecology~~ Committee of the Senate, which plan shall be revised and submitted to
2912 such committees every two years thereafter.

2913 49-2-13.

2914 All divisions and sections within the department, in cooperation with the Department of
2915 Transportation, shall identify those areas of the state where the general transportation needs
2916 of the elderly and persons with disabilities are not and cannot be adequately served by bus
2917 service and community service centers furnishing transportation. In further cooperation
2918 with the Department of Transportation, the department shall identify alternatives for
2919 meeting the transportation needs of these persons and shall report to the committees
2920 specified in subsection (c) of Code Section 49-2-12 as required therein. Such alternative

2921 means to be considered for providing for the transportation needs of these persons should
2922 include, but shall not be limited to:

- 2923 (1) Contract service resulting from competitive bidding by private sector bus operators
2924 operating under Article 1 of Chapter 7 of Title 46;
2925 (2) Contract service resulting from competitive bidding by taxi operators;
2926 (3) Negotiated fee basis with municipal and area-wide transportation systems serving the
2927 general public; or
2928 (4) Any combination of ~~above~~ paragraphs (1) through (3) of this Code section.

2929 49-2-13.1.

2930 (a) The department may, when funds are available from the United States government for
2931 such purposes, provide financial assistance with such funds, or such funds and state general
2932 funds appropriated for these purposes, to private nonprofit corporations and associations
2933 for the specific purpose of assisting them in providing transportation services meeting the
2934 special needs of the elderly or persons with disabilities, or both, for whom the department
2935 determines that the mass transportation services planned, designed, and carried out by local
2936 public bodies, agencies, and authorities are unavailable, insufficient, or inappropriate.
2937 Such financial assistance shall be subject to those terms, conditions, requirements, and
2938 restrictions as the department determines to be necessary or appropriate in order to carry
2939 out the purposes of this Code section.

2940 (b) In order to effectuate and enforce this Code section, the department is authorized to
2941 promulgate necessary rules and regulations and to prescribe conditions and procedures in
2942 order to assure compliance in carrying out the purposes of this Code section.

2943 49-2-14.

2944 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
2945 verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime,
2946 regardless of whether an appeal of the conviction has been sought.

2947 (b) The department may receive from any law enforcement agency conviction data that is
2948 relevant to a person whom the department, its contractors, or a district or county health
2949 agency is considering as a final selectee for employment in a position the duties of which
2950 involve direct care, treatment, custodial responsibilities, or any combination thereof for its
2951 clients. The department may also receive conviction data which is relevant to a person
2952 whom the department, its contractors, or a district or county health agency is considering
2953 as a final selectee for employment in a position if, in the judgment of the employer, a final
2954 employment decision regarding the selectee can only be made by a review of conviction
2955 data in relation to the particular duties of the position and the security and safety of clients,

the general public, or other employees. Further, the department or any licensed child-placing agency, designated by the department to assist it in preparing studies of homes in which children in its custody may be placed, may receive from any law enforcement agency conviction data that is relevant to any adult person who resides in a home where children in the custody of the department may be placed.

(c) The department shall establish a uniform method of obtaining conviction data under subsection (a) of this Code section which shall be applicable to the department; and its contractors, and any district or county health agency. Such uniform method shall require the submission to the Georgia Crime Information Center of ~~two complete sets of~~ fingerprints and the records search fee in accordance with Code Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit ~~one set of~~ fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its own records and records to which it has access. After receiving the fingerprints and fee, the Georgia Crime Information Center shall notify the department in writing of any derogatory finding, including, but not limited to, any conviction data regarding the fingerprint records check or if there is no such finding.

(d) All conviction data received shall be for the exclusive purpose of making employment decisions or decisions concerning children in the custody of the department or who are the subjects of a child protective services referral, complaint, or investigation and shall be privileged and shall not be released or otherwise disclosed to any other person or agency ~~except to any person or agency with a legal right to inspect the employment, department, or licensed child-placing agency file.~~ Immediately following the employment decisions or upon receipt of the conviction data concerning any adult person who has contact with a child who is the subject of a child protective services referral, complaint, or investigation or who resides in a home where children in the custody of the department may be placed, all such conviction data collected by the department or the licensed child-placing agency shall be maintained by the department or child-placing agency pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as is applicable. Penalties for the unauthorized release or disclosure of any conviction data shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as is applicable.

(e) Notwithstanding the provisions of subsection (c) of this Code section, when a contractor to this department is a personal care home, the provisions of Code Sections 31-7-250 through 31-7-264 shall apply.

(f) The department may promulgate written rules and regulations to implement the provisions of this Code section.

(g) The department may receive from any law enforcement agency criminal history information, including arrest and conviction data, and any and all other information which it may be provided pursuant to state or federal law which is relevant to any adult person who resides in a home where children in the custody of the department have been or may be placed or which is relevant to any adult person who resides in the home of or provides care to a child who is the subject of a child protective services referral, complaint, or investigation to the fullest extent permissible by federal and state law, including but not limited to Public Law 92-544. The department shall establish a uniform method of obtaining criminal history information under this subsection. Such method shall require the submission to the Georgia Crime Information Center of ~~two complete sets of fingerprint cards~~ fingerprints together with any required records search fee in accordance with Code Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit ~~one set of~~ the fingerprints submitted by the department to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its own records and records to which it has access. Such method shall also permit the submission of the names alone of such adult persons to the proper law enforcement agency when the department is considering placement of a child in exigent circumstances for a name based check of such adult person's criminal history information as maintained by the Georgia Crime Information Center and the Federal Bureau of Investigation. In such exigent circumstances, the department shall submit ~~two complete sets of fingerprint cards~~ fingerprints of those adult persons in the placement home, together with any required records search fee, to the Federal Bureau of Investigation within 15 calendar days of the date of the name based check on that person. ~~Fingerprint cards~~ The fingerprints shall be forwarded to the Federal Bureau of Investigation through the Georgia Crime Information Center in accordance with Code Section 35-3-35. Following the submission of such ~~fingerprint cards~~ fingerprints, the department may receive the criminal history information, including arrest and conviction data, relevant to such person. In the event that a child has been placed in exigent circumstances, a name based records search has been requested for any adult person of the placement household, and that adult refuses to provide fingerprints after being requested to do so by the department, the child shall be immediately removed from the placement household by the department, provided that the child is in the custody of the department.

(h) The department shall be authorized to conduct a name or descriptor based check of any adult person's criminal history information, including arrest and conviction data, and other information from the Georgia Crime Information Center regarding any adult person who

resides in a home where children in the custody of the department have been or may be placed or which is relevant to any adult person who resides in the home of or provides care to a child who is the subject of a child protective services referral, complaint, or investigation without the consent of such adult person and without fingerprint comparison to the fullest extent permissible by federal and state law.

49-2-14.1.

(a) As used in this Code section, the term:

(1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of whether an appeal of the conviction has been sought.

(2) 'Crime' means commission of the following offenses:

(A) A violation of Code Section 16-5-1, relating to murder and felony murder;

(B) A violation of Code Section 16-5-21, relating to aggravated assault;

(C) A violation of Code Section 16-5-24, relating to aggravated battery;

(D) A violation of Code Section 16-5-70, relating to cruelty to children;

(E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of age or older;

(F) A violation of Code Section 16-6-1, relating to rape;

(G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

(H) A violation of Code Section 16-6-4, relating to child molestation;

(I) A violation of Code Section 16-6-5, relating to enticing a child for indecent purposes;

(J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in custody, detained persons, or patients in hospitals or other institutions;

(K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;

(L) A violation of Code Section 16-8-41, relating to armed robbery;

(M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of a disabled adult or elder person; or

(N) Any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.

(3) 'Criminal record' means any of the following:

(A) Conviction of a crime;

(B) Arrest, charge, and sentencing for a crime where:

(i) A plea of nolo contendere was entered to the charge;

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

3065 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;
3066 or
3067 (C) Arrest and being charged for a crime if the charge is pending, unless the time for
3068 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

3069 (4) 'Facility' means a:

3070 ~~(A) Personal care home required to be licensed or permitted under Code Section~~
3071 ~~31-7-12;~~

3072 ~~(B) Private home care provider required to be licensed under Article 13 of Chapter 7~~
3073 ~~of Title 31;~~

3074 ~~(C) Community living arrangement subject to licensure under paragraph (16) of~~
3075 ~~subsection (b) and subsection (c) of Code Section 37-1-20; or~~

3076 ~~(D) Child~~ child welfare agency required to be licensed under Code Section 49-5-12.

3077 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of
3078 Chapter 3 of Title 35.

3079 (6) 'GCIC information' means criminal history record information as defined in Code
3080 Section 35-3-30.

3081 (7) 'License' means the document issued by the department to authorize the facility to
3082 operate.

3083 (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,
3084 or association with 10 percent or greater ownership interest in a facility providing care
3085 to persons under the license of the facility in this state and who:

3086 (A) Purports to or exercises authority of the owner in a facility;
3087 (B) Applies to operate or operates a facility;
3088 (C) Maintains an office on the premises of a facility;
3089 (D) Resides at a facility;
3090 (E) Has direct access to persons receiving care at a facility;
3091 (F) Provides direct personal supervision of facility personnel by being immediately
3092 available to provide assistance and direction during the time such facility services are
3093 being provided; or
3094 (G) Enters into a contract to acquire ownership of a facility.

3095 (9) 'Records check application' means ~~two sets of classifiable fingerprints~~ in such form
3096 and of such quality as prescribed by the Georgia Crime Information Center under
3097 standards adopted by the Federal Bureau of Investigation and a records search fee to be
3098 established by the department by rule and regulation, payable in such form as the
3099 department may direct to cover the cost of obtaining criminal background information
3100 pursuant to this Code section.

(b) An owner with a criminal record shall not operate or hold a license to operate a facility, and the department shall revoke the license of any owner operating a facility or refuse to issue a license to any owner operating a facility if it determines that such owner has a criminal record; provided, however, that an owner who holds a license to operate a facility on or before June 30, 2007, shall not have his or her license revoked prior to a hearing being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(c)(1) Prior to approving any license for a new facility and periodically as established by the department by rule and regulation, the department shall require an owner to submit a records check application. The department shall establish a uniform method of obtaining an owner's records check application.

(2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph, the department shall transmit to the GCIC ~~both sets of the~~ fingerprints and ~~the~~ records search fee from each fingerprint records check application in accordance with Code Section 35-3-35. Upon receipt thereof, the GCIC shall promptly transmit ~~one set of the~~ fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its records and records to which it has access. Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the GCIC shall notify the department in writing of any criminal record or if there is no such finding. After a search of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's report, the department shall make a determination about an owner's criminal record and shall notify the owner in writing as to the department's determination as to whether the owner has or does not have a criminal record.

(B) The department may either perform criminal background checks under agreement with the GCIC or contract with the GCIC and appropriate law enforcement agencies which have access to GCIC and Federal Bureau of Investigation information to have those agencies perform for the department criminal background checks for owners. The department or the appropriate law enforcement agencies may charge reasonable fees for performing criminal background checks.

(3)(A) The department's determination regarding an owner's criminal record, or any action by the department revoking or refusing to grant a license based on such determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the department.

(B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b) of this Code section, the hearing officer shall consider in mitigation the length of time since the crime was committed, the absence of additional criminal charges, the circumstances surrounding the commission of the crime, other indicia of rehabilitation, the facility's history of compliance with the regulations, and the owner's involvement with the licensed facility in arriving at a decision as to whether the criminal record requires the denial or revocation of the license to operate the facility. Where a hearing is required, at least 30 days prior to such hearing, the hearing officer shall notify the office of the prosecuting attorney who initiated the prosecution of the crime in question in order to allow the prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license as contemplated within this Code section. If objections are made, the hearing officer shall take such objections into consideration in considering the case.

(4) ~~Neither the~~ The GCIC, the department, any law enforcement agency, ~~nor~~ and the employees of any such entities shall not be responsible for the accuracy of information nor have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information or determination based thereon pursuant to this Code section.

(d) All information received from the Federal Bureau of Investigation or the GCIC shall be for the exclusive purpose of approving or denying the granting of a license to a new facility or the revision of a license of an existing facility when a new owner is proposed and shall not be released or otherwise disclosed to any other person or agency ~~except to any person or agency with a legal right to inspect the facility~~. All such information collected by the department shall be maintained by the department pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable. Penalties for the unauthorized release or disclosure of any such information shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable.

(e) The requirements of this Code section are supplemental to any requirements for a license imposed by Article 3 of Chapter 5 of this title or Article 11 of Chapter 7 of Title 31.

(f) The department shall promulgate written rules and regulations to implement the provisions of this Code section.

49-2-15.

When any action is brought against the Department of Human ~~Resources~~ Services, the Board of Human ~~Resources~~ Services, the commissioner of human ~~resources~~ services, or any employee or agent thereof or when any action is brought in which the department could

be held responsible for damages awarded in such action, it shall be the duty of the plaintiff to provide for service of notice of the pendency of such action by providing for service of a second original process, issued from the court in which the action is filed, upon the commissioner of human ~~resources~~ services personally or upon a person designated by the commissioner in writing to serve as agent for the acceptance of such service of process. The service of process in such action shall not be perfected until such second original process has been served as provided in this Code section. The provisions of this Code section shall be cumulative of any other requirements imposed by law for the service of process or notice.

49-2-16.

(a) There is created a Georgia Council for Welfare Administration. The objectives ~~for~~ of the council shall be:

(1) To promote improvements in public welfare and social service programs of the Division of Family and Children Services within the Department of Human ~~Resources~~ Services;

(2) To provide a forum for the interchange of information relating to welfare and social service programs; and

(3) To promote with any organization exempt under Section 501(c)(4) of the United States Internal Revenue Code of 1986 a more efficient public welfare delivery system for the citizens of this state.

(b) Membership in the council shall be open to persons actively employed in the Division of Family and Children Services within the Department of Human ~~Resources~~ Services.

(c) No state funds shall be appropriated for the benefit or use of the council.

(d) The council is authorized to adopt bylaws which prescribe its organizational structure, officers, terms and condition of office, meeting schedules, and such other organizational procedures as are necessary for its lawful and effective functioning.

(e) The commissioner of human ~~resources~~ services shall call the initial meeting of the council at which time the council shall organize and select its officers.

49-2-17.

(a) This Code section shall be applicable to any agency, facility, institution, or entity subject to regulation by the department under Chapter 5 of this title. For purposes of this Code section, the term 'license' shall be used to refer to any license, permit, registration, or commission issued by the department pursuant to the provisions of the law cited in this subsection.

(b) The department shall have the authority to take any of the actions enumerated in subsection (c) of this Code section upon a finding that the applicant or licensee has:

(1) Knowingly made any false statement of material information in connection with the application for a license, or in statements made or on documents submitted to the department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the agency, facility, institution, or entity;

(2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the agency, facility, institution, or entity;

(3) Failed to comply with the licensing requirements of this state; or

(4) Failed to comply with any provision of this Code section.

(c) When the department finds that any applicant or licensee has violated any provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders related to the initial or continued licensing of the agency, facility, institution, or entity, the department, subject to notice and opportunity for hearing, may take any of the following actions:

(1) Refuse to grant a license; provided, however, that the department may refuse to grant a license without holding a hearing prior to taking such action;

(2) Administer a public reprimand;

(3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;

(4) Prohibit any applicant or licensee from allowing a person who previously was involved in the management or control, as defined by rule, of any agency, facility, institution, or entity which has had its license or application revoked or denied within the past 12 months to be involved in the management or control of such agency, facility, institution, or entity;

(5) Revoke any license;

(6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of any agency, facility, institution, or entity; or

(7) Limit or restrict any license as the department deems necessary for the protection of the public, including, but not limited to, restricting some or all services of or admissions into an agency, facility, institution, or entity for a time certain.

In taking any of the actions enumerated in this subsection, the department shall consider the seriousness of the violation, including the circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public.

3244 (d) The department may deny a license or otherwise restrict a license for any applicant
3245 who has had a license denied, revoked, or suspended within one year of the date of an
3246 application or who has transferred ownership or governing authority of an agency, facility,
3247 institution, or entity subject to regulation by the department within one year of the date of
3248 a new application when such transfer was made in order to avert denial, revocation, or
3249 suspension of a license.

3250 (e) With regard to any contested case instituted by the department pursuant to this Code
3251 section or other provisions of law which may now or hereafter authorize remedial or
3252 disciplinary grounds and action, the department may, in its discretion, dispose of the action
3253 so instituted by settlement. In such cases, all parties, successors, and assigns to any
3254 settlement agreement shall be bound by the terms specified therein and violation thereof
3255 by any applicant or licensee shall constitute grounds for any action enumerated in
3256 subsection (c) of this Code section.

3257 (f) The department shall have the authority to make public or private investigations or
3258 examinations inside or outside of this state to determine whether the provisions of this
3259 Code section or any other law, rule, regulation, or formal order relating to the licensing of
3260 any agency, facility, institution, or entity has been violated. Such investigations may be
3261 initiated at any time, in the discretion of the department, and may continue during the
3262 pendency of any action initiated by the department pursuant to subsection (c) of this Code
3263 section.

3264 (g) For the purpose of conducting any investigation, inspection, or survey, the department
3265 shall have the authority to require the production of any books, records, papers, or other
3266 information related to the initial or continued licensing of any agency, facility, institution,
3267 or entity.

3268 (h) Pursuant to the investigation, inspection, and enforcement powers given to the
3269 department by this Code section and other applicable laws, the department may assess
3270 against an agency, facility, institution, or entity reasonable and necessary expenses incurred
3271 by the department pursuant to any administrative or legal action required by the failure of
3272 the agency, facility, institution, or entity to fully comply with the provisions of any law,
3273 rule, regulation, or formal order related to the initial or continued licensing. Assessments
3274 shall not include attorney's fees and expenses of litigation, shall not exceed other actual
3275 expenses, and shall only be assessed if such investigations, inspection, or enforcement
3276 actions result in adverse findings, as finally determined by the department, pursuant to
3277 administrative or legal action.

3278 (i) For any action taken or any proceeding held under this Code section or under color of
3279 law, except for gross negligence or willful or wanton misconduct, the department, when

acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

(j) In an administrative or legal proceeding under this Code section, a person or entity claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

(k) This Code section and all actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(l) The provisions of this Code section shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Code section limits such grounds or actions, those other provisions shall apply.

(m) The department is authorized to promulgate rules and regulations to implement the provisions of this Code section.

ARTICLE 2

49-2-20.

As used in this part, the term:

(1) 'Inspection warrant' means a warrant authorizing a search or inspection of private property where such a search or inspection is one that is necessary for the enforcement of a residential child care licensing law.

(2) 'Residential child care licensing law' means this chapter and Chapter 5 of this title and any rule or regulation duly promulgated thereunder.

49-2-21.

The commissioner or the commissioner's designee, in addition to other procedures now or hereafter provided, may obtain an inspection warrant under the conditions specified in this part. Such warrant shall authorize the commissioner or the commissioner's designee to conduct a search or inspection of property either with or without the consent of the person whose property is to be searched or inspected if such search or inspection is one that is elsewhere authorized under the rules and regulations duly promulgated pursuant to a residential child care licensing law.

3311 49-2-22.

3312 (a) Inspection warrants shall be issued only by a judge of a court of record whose
3313 territorial jurisdiction encompasses the property to be inspected.

3314 (b) The issuing judge shall issue the warrant when the judge is satisfied that the following
3315 conditions are met:

3316 (1) The one seeking the warrant must establish under oath or affirmation that the
3317 property to be inspected is to be inspected as a part of a legally authorized program of
3318 inspection which includes that property or that there is probable cause for believing that
3319 there is a condition, object, activity, or circumstance which legally justifies such an
3320 inspection of that property; and

3321 (2) The issuing judge determines that the issuance of the warrant is authorized by this
3322 part.

3323 49-2-23.

3324 The inspection warrant shall be validly issued only if it meets the following requirements:

3325 (1) The warrant is attached to the affidavit required to be made in order to obtain the
3326 warrant;

3327 (2) The warrant describes either directly or by reference to the affidavit the property
3328 upon which the inspection is to occur and is sufficiently accurate that the executor of the
3329 warrant and the owner or possessor of the property can reasonably determine from it the
3330 property of which the warrant authorizes an inspection;

3331 (3) The warrant indicates the conditions, objects, activities, or circumstances which the
3332 inspection is intended to check or reveal; and

3333 (4) The warrant refers in general terms to the statutory or regulatory provisions sought
3334 to be enforced.

3335 49-2-24.

3336 No facts discovered or evidence obtained in an inspection conducted under authority of an
3337 inspection warrant issued pursuant to this part shall be competent as evidence in any
3338 criminal proceeding against any party.

3339 49-2-25.

3340 The Department of Human Services is empowered to institute appropriate proceedings for
3341 injunction in the courts of competent jurisdiction in this state for the purpose of enjoining
3342 a violation of any provision of a residential child care licensing law as now existing or as
3343 may be hereafter amended or of any regulation or order duly issued by the board or
3344 department. The department is also empowered to maintain action for injunction to abate

3345 any public nuisance which is injurious to the public health, safety, or comfort. Such
3346 actions may be maintained notwithstanding the fact that such violation also constitutes a
3347 crime and notwithstanding that other adequate remedies at law exist. Such actions may be
3348 instituted in the name of the department in the county in which a violation of any provision
3349 of this title occurs."

3350 **SECTION 2-2.**

3351 The following Code sections of the Official Code of Georgia Annotated are amended by
3352 replacing "Department of Human Resources" wherever it occurs with "Department of Human
3353 Services":

- 3354 (1) Code Section 2-7-102, relating to grounds for denial, suspension, revocation, or
3355 modification of license, permit, or certification for use and application of pesticides;
- 3356 (2) Code Section 10-1-855, relating to referral procedures to provide intervention and
3357 assistance for elder or disabled persons;
- 3358 (3) Code Section 12-6-49.1, relating to denial or suspension of license for
3359 noncompliance with child support order;
- 3360 (4) Code Section 15-11-8, relating to expenses charged to county and payment by
3361 parents on court order;
- 3362 (5) Code Section 15-11-14, relating to emergency care and supervision of a child by the
3363 Department of Human Resources;
- 3364 (6) Code Section 15-11-15, relating to detainment of child in temporary protective
3365 custody of a physician;
- 3366 (7) Code Section 15-11-19, relating to the establishment of the Council of Juvenile Court
3367 Judges;
- 3368 (8) Code Section 15-11-55, relating to disposition of a deprived child;
- 3369 (9) Code Section 15-11-58, relating to reasonable efforts regarding reunification of
3370 family;
- 3371 (10) Code Section 15-11-71, relating to supervision fees for juvenile courts;
- 3372 (11) Code Section 15-11-103, relating to placement of a child following a termination
3373 order;
- 3374 (12) Code Section 15-11-171, relating to definitions relative to the "Georgia Child
3375 Advocate for the Protection of Children Act";
- 3376 (13) Code Section 15-11A-4, relating to appointment of personnel to the Family Court
3377 Division of the Superior Court of Fulton County;
- 3378 (14) Code Section 15-18-14, relating to appointment of prosecuting attorneys;
- 3379 (15) Code Section 18-4-131, relating to definitions relative to continuing garnishment
3380 for family support;

- 3381 (16) Code Section 19-6-15, relating to child support in final verdict or decree;
3382 (17) Code Section 19-6-31, relating to definitions relative to income deduction orders;
3383 (18) Code Section 19-6-33.1, relating to the family support registry;
3384 (19) Code Section 19-6-51, relating to members of the Georgia Child Support
3385 Commission;
3386 (20) Code Section 19-7-5, relating to reporting of child abuse;
3387 (21) Code Section 19-7-6, relating to reporting of juvenile drug use;
3388 (22) Code Section 19-7-22, relating to petitions for legitimization of child;
3389 (23) Code Section 19-7-40, relating to jurisdiction and administrative determination of
3390 paternity;
3391 (24) Code Section 19-7-43, relating to petitions to establish paternity of a child;
3392 (25) Code Section 19-7-52, relating to whom support payments may be made;
3393 (26) Code Section 19-7-54, relating to motions to set aside determination of paternity;
3394 (27) Code Section 19-8-1, relating to definitions relative to adoption;
3395 (28) Code Section 19-8-5, relating to surrender or termination of parental or guardian's
3396 rights where child to be adopted by a third party;
3397 (29) Code Section 19-8-23, relating to where records of adoption are kept;
3398 (30) Code Section 19-8-26, relating to how surrender of parental rights is executed;
3399 (31) Code Section 19-9-122, relating to delegation of authority for the care of a minor
3400 child;
3401 (32) Code Section 19-9-129, relating to the power of attorney form for the care of a
3402 minor child;
3403 (33) Code Section 19-10A-5, relating to investigating and reporting utilization of
3404 provisions under the "Safe Place for Newborns Act of 2002";
3405 (34) Code Section 19-10A-6, relating to reimbursement of medical costs under the "Safe
3406 Place for Newborns Act of 2002";
3407 (35) Code Section 19-11-3, relating to definitions relative to the "Child Support
3408 Recovery Act";
3409 (36) Code Section 19-11-9.1, relating to duty to furnish information about obligor to the
3410 Department of Human Resources;
3411 (37) Code Section 19-11-9.2, relating to duty of employers to report hiring or rehiring
3412 of persons;
3413 (38) Code Section 19-11-9.3, relating to suspension or denial of license for
3414 noncompliance with child support order;
3415 (39) Code Section 19-11-18, relating to collection procedures for child support payments
3416 in arrears;

3417 (40) Code Section 19-11-30.1, relating to the computer based registry for financial
3418 institutions with regard to the "Child Support Recovery Act";
3419 (41) Code Section 19-11-30.2, relating to definitions relative to the computer based
3420 registry for financial institutions with regard to the "Child Support Recovery Act";
3421 (42) Code Section 19-11-30.3, relating to the responsibility of the Department of Human
3422 Resources Bank Match Registry;
3423 (43) Code Section 19-11-58, relating to the Department of Human Resources designated
3424 as the state information agency under the "Uniform Reciprocal Enforcement of Support
3425 Act";
3426 (44) Code Section 19-11-102, relating to designated tribunals under the "Uniform
3427 Interstate Family Support Act";
3428 (45) Code Section 19-11-110, relating to jurisdiction under the "Uniform Interstate
3429 Family Support Act";
3430 (46) Code Section 19-11-127, relating to authority of district attorney to represent the
3431 Department of Human Resources in a proceeding under the "Uniform Interstate Family
3432 Support Act";
3433 (47) Code Section 19-11-129, relating to the Department of Human Resources as the
3434 state information agency under the "Uniform Interstate Family Support Act";
3435 (48) Code Section 19-13-20, relating to definitions relative to family violence shelters;
3436 (49) Code Section 19-15-2, relating to child abuse protocol committees;
3437 (50) Code Section 19-15-3, relating to county multiagency child fatality review
3438 committees;
3439 (51) Code Section 20-1A-60, relating to definitions relative to the Georgia Child Care
3440 Council;
3441 (52) Code Section 20-2-133, relating to free public instruction for children in elementary
3442 and secondary education;
3443 (53) Code Section 20-2-250, relating to projects to improve effectiveness in elementary
3444 and secondary education;
3445 (54) Code Section 20-2-696, relating to duties of visiting teachers and attendance
3446 officers;
3447 (55) Code Section 20-3-660, relating to creation of a program of postsecondary grants
3448 for foster children and adopted children;
3449 (56) Code Section 29-4-2, relating to qualifications of guardians selected for adults;
3450 (57) Code Section 29-4-3, relating to order of preference in selection of guardians;
3451 (58) Code Section 29-9-10, relating to oath by a duly appointed delegate of the
3452 Department of Human Resources;

3453 (59) Code Section 29-10-3, relating to qualifications and requirements of public
3454 guardians;
3455 (60) Code Section 29-10-4, relating to registration of public guardians with the probate
3456 court;
3457 (61) Code Section 29-10-10, relating to compensation of public guardians;
3458 (62) Code Section 29-10-11, relating to appropriation of funds for compensation of
3459 public guardians in certain circumstances;
3460 (63) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
3461 (64) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries
3462 for the Blind;
3463 (65) Code Section 30-5-3, relating to definitions relative to the "Disabled Adults and
3464 Elder Persons Protection Act"
3465 (66) Code Section 30-5-10, relating to cooperative effort in development of programs
3466 relating to the abuse and exploitation of persons 65 years of age or older;
3467 (67) Code Section 31-7-282, relating to collection and submission of health care data;
3468 (68) Code Section 31-8-52, relating to the establishment of a long-term care ombudsman
3469 program;
3470 (69) Code Section 31-8-116, relating to involuntary transfer of residents discharged from
3471 a long-term care facility;
3472 (70) Code Section 31-10-9.1, relating to social security account information of parents
3473 with respect to vital records;
3474 (71) Code Section 34-8-199, relating to uncollected overissuance of food stamp coupons;
3475 (72) Code Section 39-4-1, relating to the definition of "appropriate public authority" with
3476 respect to the Interstate Compact on the Placement of Children;
3477 (73) Code Section 39-4-2, relating to the definition of "appropriate authority in the
3478 receiving state" with respect to the Interstate Compact on the Placement of Children;
3479 (74) Code Section 40-5-2, relating to keeping of records of applications for licenses and
3480 information on licensees;
3481 (75) Code Section 40-5-54.1, relating to denial or suspension of license for
3482 noncompliance with child support order;
3483 (76) Code Section 42-1-12, relating to the state sexual offender registry;
3484 (77) Code Section 42-9-58, relating to effect of state pardons and paroles laws on other
3485 laws respecting parole and probation;
3486 (78) Code Section 43-1-19, relating to grounds for refusing to grant or revoking licenses
3487 by a professional licensing board;
3488 (79) Code Section 45-9-4, relating to the commissioner of administrative services to
3489 purchase insurance or indemnity contracts;

3490 (80) Code Section 45-13-22, relating to distribution of Georgia Laws and journals of the
3491 House of Representatives and Senate;

3492 (81) Code Section 46-4-152, relating to definitions relative to the "Natural Gas
3493 Competition and Deregulation Act";

3494 (82) Code Section 46-4-158.3, relating to adequate and accurate consumer information
3495 disclosure statements;

3496 (83) Code Section 48-7-29.15, relating to a tax credit for the adoption of a foster child;

3497 (84) Code Section 49-3-1, relating to establishment of county and district departments,
3498 boards, and directors;

3499 (85) Code Section 49-3-3, relating to appointment of county director; bond of county
3500 director;

3501 (86) Code Section 49-3-4, relating to appointment of staff, salaries, and power of the
3502 commissioner of human resources to transfer employees;

3503 (87) Code Section 49-3-6, relating to functions of county departments of family and
3504 children services;

3505 (88) Code Section 49-4-2, relating to definitions relative to public assistance;

3506 (89) Code Section 49-4-3, relating to establishment of categories of public assistance;

3507 (90) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded
3508 in determining eligibility for public assistance;

3509 (91) Code Section 49-4-8, relating to applications for public assistance;

3510 (92) Code Section 49-4-9, relating to investigation and record concerning application for
3511 public assistance;

3512 (93) Code Section 49-4-14, relating to regulations as to records relating to public
3513 assistance;

3514 (94) Code Section 49-4-36, relating to payment of assistance for needy individuals who
3515 are 65 years of age or older after recipient moves to another county;

3516 (95) Code Section 49-4-54, relating to duties of county departments under the "Aid to
3517 the Blind Act";

3518 (96) Code Section 49-4-56, relating to reexamination of recipient's eyesight under the
3519 "Aid to the Blind Act";

3520 (97) Code Section 49-4-60, relating to payment of assistance for needy blind individuals
3521 after recipient moves to another county;

3522 (98) Code Section 49-4-85, relating to payment of assistance for needy individuals who
3523 are totally and permanently disabled after recipient moves to another county;

3524 (99) Code Section 49-4-162, relating to the establishment of the Georgia Qualified
3525 Long-term Care Partnership Program;

3526 (100) Code Section 49-4-171, relating to a hearing on the petition for a personal
3527 representative to manage assistance payments;
3528 (101) Code Section 49-4-181, relating to definitions relative to temporary assistance for
3529 needy families;
3530 (102) Code Section 49-4-183, relating to administration of the temporary assistance for
3531 needy families program by the Department of Human Resources;
3532 (103) Code Section 49-4-190, relating to construction of the laws relating to the
3533 temporary assistance for needy families program;
3534 (104) Code Section 49-5-4, relating to the coordination of other state departments,
3535 agencies, officers, and employees for children and youth services;
3536 (105) Code Section 49-5-7, relating to development and administration of public child
3537 welfare and youth services;
3538 (106) Code Section 49-5-8, relating to powers and duties of the Department of Human
3539 Resources with respect to programs and protection for children and youth;
3540 (107) Code Section 49-5-12, relating to licensing and inspection of child welfare
3541 agencies;
3542 (108) Code Section 49-5-41, relating to persons and agencies permitted access to child
3543 abuse and deprivation records;
3544 (109) Code Section 49-5-41.1, relating to inspection and retention of records of juvenile
3545 drug use;
3546 (110) Code Section 49-5-90, relating to definitions relative to emergency protection of
3547 children in certain institutions;
3548 (111) Code Section 49-5-130, relating to legislative findings and intent relative to the
3549 Governor's Office for Children and Families;
3550 (112) Code Section 49-5-154, relating to study of youth needs for delinquency
3551 prevention and community based services;
3552 (113) Code Section 49-5-180, relating to definitions relative to a central child abuse
3553 registry;
3554 (114) Code Section 49-5-281, relating to the bill of rights for foster parents;
3555 (115) Code Section 49-6-20, relating to the creation of the Council on Aging;
3556 (116) Code Section 49-6-61, relating to definitions relative to community care and
3557 services for the elderly;
3558 (117) Code Section 49-6-72, relating to definitions relative to the "Georgia Family
3559 Caregiver Support Act";
3560 (118) Code Section 50-5-136, relating to the powers and authority of the State Use
3561 Council; and

3562 (119) Code Section 50-27-55, relating to setoff of debt collection against lottery prizes
3563 applicable to prizes of \$5,000.00 or more.

3564 **SECTION 2-3.**

3565 The following Code sections of the Official Code of Georgia Annotated are amended by
3566 replacing "Board of Human Resources" wherever it occurs with "Board of Human Services":

3567 (1) Code Section 9-10-152, relating to grounds for continuance in any case pending in
3568 the courts of this state for attendance by a board member at meeting of Board of Human
3569 Resources;

3570 (2) Code Section 17-8-30, relating to grounds for granting of continuances in any case
3571 pending in the courts of this state for party or party's counsel in attendance as a board
3572 member at meeting of Board of Human Resources;

3573 (3) Code Section 19-11-5, relating to debt to state created by payment of public
3574 assistance under the "Child Support Recovery Act";

3575 (4) Code Section 30-5-6, relating to cooperation of other public agencies with the
3576 director of the Division of Aging Services of the Department of Human Resources under
3577 the "Disabled Adults and Elder Persons Protection Act";

3578 (5) Code Section 45-10-40, relating to prohibitions on contracting with state institutions;

3579 (6) Code Section 45-10-41, relating to penalty for profiting from contracts with state
3580 institutions generally;

3581 (7) Code Section 49-3-6, relating to functions of county departments of family and
3582 children services;

3583 (8) Code Section 49-4-11, relating to award and payment of public assistance to needy
3584 persons;

3585 (9) Code Section 49-4-12, relating to periodic redetermination of public assistance
3586 awards;

3587 (10) Code Section 49-4-54, relating to duties of county departments under the "Aid to
3588 the Blind Act";

3589 (11) Code Section 49-4-181, relating to definitions relative to temporary assistance for
3590 needy families;

3591 (12) Code Section 49-4-183, relating to administration of the temporary assistance for
3592 needy families program by the Department of Human Resources;

3593 (13) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;
3594 and

3595 (14) Code Section 49-6-62, relating to the establishment of community care unit in the
3596 Division of Aging Services of the Department of Human Resources.

SECTION 2-4.

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "commissioner of human resources" wherever it occurs with "commissioner of human services":

- (1) Code Section 19-8-16, relating to investigation by child-placing agency or other agent with respect to adoption;
- (2) Code Section 19-8-23, relating to where records of adoption are kept;
- (3) Code Section 19-11-9, relating to location of absent parents by the Department of Human Resources with respect to the "Child Support Recovery Act";
- (4) Code Section 19-11-11, relating to issuance of subpoenas by the Department of Human Resources with respect to the "Child Support Recovery Act";
- (5) Code Section 19-11-18, relating to collection procedures with respect to the "Child Support Recovery Act";
- (6) Code Section 19-11-30.6, relating to reciprocal agreements with other states with respect to the "Child Support Recovery Act";
- (7) Code Section 19-11-30.7, relating to construction of the "Child Support Recovery Act";
- (8) Code Section 19-11-30.8, relating to annual reports with respect to the "Child Support Recovery Act";
- (9) Code Section 19-11-30.9, relating to information subject to disclosure with respect to the "Child Support Recovery Act";
- (10) Code Section 19-11-30.11, relating to fee on levied accounts with respect to the "Child Support Recovery Act";
- (11) Code Section 20-1A-61, relating to the members of the Child Care Council;
- (12) Code Section 28-5-60, relating to creation of the Claims Advisory Board;
- (13) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- (14) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries for the Blind;
- (15) Code Section 31-8-53, relating to duties of the state long-term care ombudsman;
- (16) Code Section 45-7-7, relating to compensation and allowances of certain public officials not to be changed without giving public notice;
- (17) Code Section 45-9-4, relating to commissioner of administrative services to purchase insurance or indemnity contracts insuring or indemnifying state officers, officials, or employees against personal liability;
- (18) Code Section 49-3-3, relating to appointment of the director of each county board of family and children services;

- 3633 (19) Code Section 49-3-4, relating to appointment of the staff of each county board of
3634 family and children services;
- 3635 (20) Code Section 49-4-15.1, relating to examination of financial records in instances of
3636 alleged fraud by recipients of food stamps and public assistance;
- 3637 (21) Code Section 49-4A-3, relating to the creation of the Department of Juvenile
3638 Justice;
- 3639 (22) Code Section 49-5-90, relating to definitions relative to emergency protection of
3640 children in certain institutions;
- 3641 (23) Code Section 49-8-3, relating to definitions relative to "The Economic
3642 Rehabilitation Act of 1975";
- 3643 (24) Code Section 50-5-69, relating to state purchases without competitive bidding; and
3644 (25) Code Section 50-5-135, relating to the creation of the State Use Council.

3645 **SECTION 2-5.**

3646 The following Code sections of the Official Code of Georgia Annotated are amended by
3647 replacing "Office of Aging" or "Office of Aging Section" wherever it occurs with "Division
3648 of Aging Services":

- 3649 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and
3650 assistance for elder or disabled persons;
- 3651 (2) Code Section 49-6-5, relating to the creation of the Office of Aging Section within
3652 the Department of Human Resources; and
- 3653 (3) Code Section 49-6-20, relating to the creation of the Council on Aging.

3654 **SECTION 2-6.**

3655 Code Section 10-1-395 of the Official Code of Georgia Annotated, relating to the
3656 appointment and duties of the administrator and the creation of the Consumer Advisory
3657 Board, is amended by revising subsection (a) as follows:

3658 "(a) The administrator shall be appointed by the Governor and shall serve at his pleasure.
3659 The office of the administrator shall be attached to the office of the Governor for
3660 administrative purposes only. The administrator shall perform all functions formerly
3661 performed by the Consumer Services Unit of the Division of Special Programs of the
3662 Department of Human Resources (now known as the Department of Human Services)."

3663 **SECTION 2-7.**

3664 Code Section 15-11-63 of the Official Code of Georgia Annotated, relating to commitment
3665 of child 13 to 17 years of age to custody of Department of Corrections, is amended by
3666 revising paragraph (2) of subsection (e) as follows:

3667 "(2) During the placement or any extension thereof:

3668 (A) After the expiration of the period provided in subparagraph (C) of paragraph (1) of

3669 this subsection, the child shall not be released from intensive supervision without the

3670 written approval of the commissioner of juvenile justice or such commissioner's

3671 designated deputy;

3672 (B) While in a youth development center, the child may be permitted to participate in all

3673 youth development center services and programs and shall be eligible to receive special

3674 medical and treatment services, regardless of the time of confinement in the youth

3675 development center. After the first six months of confinement in a youth development

3676 center, a child may be eligible to participate in youth development center sponsored

3677 programs including community work programs and sheltered workshops under the

3678 general supervision of a youth development center staff outside of the youth development

3679 center; and, in cooperation and coordination with the Department of Human ~~Resources~~

3680 Services, the child may be allowed to participate in state sponsored programs for

3681 evaluation and services under the Division of Rehabilitation Services of the Department

3682 of Labor and the ~~Division of Mental Health, Developmental Disabilities, and Addictive~~

3683 ~~Diseases of the Department of Human Resources~~ Department of Behavioral Health and

3684 Developmental Disabilities;

3685 (C) The child shall not be discharged from the custody of the Department of Juvenile

3686 Justice unless a motion therefor is granted by the court, which motion shall not be made

3687 prior to the expiration of one year of custody; and

3688 (D) Unless otherwise specified in the order, the Department of Juvenile Justice shall

3689 report in writing to the court not less than once every six months during the placement

3690 on the status, adjustment, and progress of the child; and"

3691 **SECTION 2-8.**

3692 Code Section 19-15-1 of the Official Code of Georgia Annotated, relating to definitions

3693 relative to child abuse, is amended by revising paragraph (4) as follows:

3694 "(4) 'Child protection professional' means any person who is employed by the state or a

3695 political subdivision of the state as a law enforcement officer, school teacher, school

3696 administrator, or school counselor or who is employed to render services to children by

3697 the Department of Community Health, the Department of Behavioral Health and

3698 Developmental Disabilities, or the Department of Human ~~Resources~~ Services or any

3699 county board of health, community service board, or county department of family and

3700 children services."

SECTION 2-9.

Code Section 20-1A-3 of the Official Code of Georgia Annotated, relating to the commissioner and board of the Department of Early Care and Learning, is amended by revising subsection (d) as follows:

"(d) The board shall determine policies and promulgate rules and regulations for the operation of the department including:

(1) Functions formerly performed by the Office of School Readiness, including, but not limited to, Even Start;

(2) Functions transferred to the department from the Department of Human Resources (now known as the Department of Human Services) relating to day-care centers, group day-care homes, family day-care homes, and other functions as agreed upon by the department and the Department of Human Resources (now known as the Department of Human Services) in accordance with Code Section 20-1A-8;

(3) Functions transferred to the department from the Georgia Child Care Council pursuant to Code Section 20-1A-63; and

(4) Functions relating to early childhood education programs transferred from the Department of Education by agreement in accordance with Code Section 20-1A-17."

SECTION 2-10.

Code Section 20-1A-4 of the Official Code of Georgia Annotated, relating to the powers and duties of the Department of Early Care and Learning, is amended by revising paragraph (8) as follows:

"(8) To perform any other functions as agreed upon between the department and the Department of Human Resources (now known as the Department of Human Services), pursuant to Code Section 20-1A-8;"

SECTION 2-11.

Code Section 20-1A-8 of the Official Code of Georgia Annotated, relating to the transfer of functions, powers, personnel, equipment, and assets from Department of Human Resources to the Department of Early Care and Learning, is amended by revising subsections (a) and (b) as follows:

"(a) Effective October 1, 2004, the department shall carry out all of the functions and exercise all of the powers formerly held by the Department of Human Resources (now known as the Department of Human Services) for the regulation and licensure of early care and education programs and any other functions as agreed upon by the department and the Department of Human Resources. Subject to subsection (c) of this Code section, all persons employed by and positions authorized for the Department of Human Resources to

perform functions relating to the licensure and certification of early care and education programs and any other functions as agreed upon by the department and the Department of Human Resources on September 30, 2004, shall on October 1, 2004, be transferred to the department. All office equipment, furniture, and other assets in possession of the Department of Human Resources which are used or held exclusively or principally by personnel transferred under this subsection shall be transferred to the department on October 1, 2004.

(b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child Care Council included in Code Section 20-1A-63, the department shall carry out the functions and exercise the powers formerly held by the Georgia Child Care Council under former Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section, all persons employed by and positions authorized for the Georgia Child Care Council to perform functions relating to the recommendation of measures to improve the quality, availability, and affordability of child care in this state on September 30, 2004, shall on October 1, 2004, be transferred to the department. All office equipment, furniture, and other assets in possession of the Georgia Child Care Council or the Department of Human Resources, (now known as the Department of Human Services) which are used or held exclusively or principally by personnel transferred under this subsection shall be transferred to the department on October 1, 2004."

SECTION 2-12.

Code Section 20-1A-9 of the Official Code of Georgia Annotated, relating to the authority to license and regulate day-care centers, group day-care homes, and family day-care homes transferred to the Department of Early Care and Learning, is amended as follows:

"20-1A-9.

The department shall succeed to all rights and responsibilities relating to licensure and regulation of day-care centers, group day-care homes, and family day-care homes, including such rules, regulations, policies, procedures, and pending and finalized administrative orders of the Department of Human Resources (now known as the Department of Human Services), the Georgia Child Care Council, and the Office of State Administrative Hearings, where applicable, which are in effect on September 30, 2004, and which relate to the functions transferred to the department pursuant to Code Section 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law, procedures, and orders shall remain in effect until amended, repealed, superseded, or nullified by the commissioner. Such rules, regulations, and policies shall remain in effect until amended, repealed, superseded, or nullified by the board."

SECTION 2-13.

Code Section 24-9-101, of the Official Code of Georgia Annotated, relating to definitions relative to use of sign language and intermediary interpreter in administrative and judicial proceedings, is amended by revising paragraph (2) as follows:

"(2) 'Department' means the Department of ~~Human Resources~~ Labor."

SECTION 2-14.

Code Section 30-5-7 of the Official Code of Georgia Annotated, relating to confidentiality of public records for the protection of disabled adults and elder persons, is amended as follows:

"30-5-7.

All records pertaining to the abuse, neglect, or exploitation of disabled adults or elder persons in the custody of the department shall be confidential; and access thereto by persons other than the department, the director, or the district attorney shall only be by valid subpoena or order of any court of competent jurisdiction. Nothing in this Code section shall be construed to deny state agencies participating in joint investigations at the request of and with the department or to deny law enforcement personnel who are conducting an investigation into any criminal offense in which an elder person is a victim from having access to such records.

SECTION 2-15.

Chapter 4 of Title 31 of the Official Code of Georgia Annotated, relating to the Council on Maternal and Infant Health, is repealed in its entirety and reserved.

SECTION 2-16.

Code Section 31-8-51 of the Official Code of Georgia Annotated, relating to definitions relative to the long-term care ombudsman, is amended by adding a new paragraph to read as follows:

"(1.1) 'Department' means the Department of Human Services."

SECTION 2-17.

Code Section 34-15-2 of the Official Code of Georgia Annotated, relating to the July 2001 transfer of the Division of Rehabilitation Services to the Department of Labor, is amended by revising subsection (a) as follows:

"(a) The Division of Rehabilitation Services within the Department of Human Resources (now known as the Department of Human Services), including the disability adjudication section and the Roosevelt Warm Springs Institute for Rehabilitation, is transferred to the

3804 Department of Labor on July 1, 2001, and that division shall become the Division of
3805 Rehabilitation Services of the Department of Labor on July 1, 2001. The functions, duties,
3806 programs, institutions, and authority of the Division of Rehabilitation Services which were
3807 vested in the Department of Human Resources on June 30, 2001, are vested in the
3808 Department of Labor effective July 1, 2001. The division shall be administered by a
3809 director appointed by the Commissioner. The policy-making functions which were vested
3810 in the Board of Human Resources (now known as the Board of Human Services) or the
3811 Department of Human Resources pertaining to the Division of Rehabilitation Services are
3812 vested in the Commissioner of Labor effective July 1, 2001."

3813 **SECTION 2-18.**

3814 Code Section 40-2-86.21 of the Official Code of Georgia Annotated, relating to special
3815 license plates promoting certain beneficial projects and supporting certain worthy agencies,
3816 funds, or nonprofit corporations, is amended by revising paragraphs (14) and (33) of
3817 subsection (o) as follows:

3818 "(14) A special license plate for the Thanks Mom and Dad Fund. The funds raised by the
3819 sale of this special license plate shall be disbursed to the Department of Human ~~Resources~~
3820 Services to address the key needs of the state's older population or a nonprofit corporation
3821 organized to serve the needs of the state's older population."

3822 "(33) A special license plate supporting programs for the treatment of autism. The funds
3823 raised by the sale of this special license plate shall be disbursed to the Department of
3824 ~~Human Resources~~ Behavioral Health and Developmental Disabilities for the support of
3825 programs for the treatment of autism in Georgia."

3826 **SECTION 2-19.**

3827 Code Section 45-20-90 of the Official Code of Georgia Annotated, relating to definitions
3828 relative to random drug testing of public employees in high-risk jobs, is amended by revising
3829 paragraph (2) as follows:

3830 "(2) 'Established drug test' means the collection and testing of bodily fluids administered
3831 in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace
3832 Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended) or
3833 other professionally valid procedures approved by the ~~commissioner of human resources~~
3834 State Personnel Board."

SECTION 2-20.

Code Section 46-1-5 of the Official Code of Georgia Annotated, relating to duties of the Department of Human Resources with regard to assistance to low or fixed income consumers of gas and electric service, is amended as follows:

"46-1-5.

By March 2, 1982, the Department of Human Resources (now known as the Department of Human Services) shall develop a program to identify those low or fixed income consumers of gas and electric utility service who, in the department's opinion, should benefit from public assistance in paying their bills for gas and electric service. The department shall also establish an efficient and economical method for distributing to such consumers all public assistance funds which will be made available, whether by appropriations of state or federal funds, grants, or otherwise. All gas and electric utilities shall cooperate fully with the department in developing and implementing its program. Nothing in this Code section shall limit the commission's authority to order regulatory alternatives which assist low or fixed income ratepayers."

SECTION 2-21.

Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to definitions relative to setoff debt collection, is amended as follows:

"48-7-161.

As used in this article, the term:

(1) 'Claimant agency' means and includes, in the order of priority set forth below:

(A) The Department of Human ~~Resources~~ Services and the Department of Behavioral Health and Developmental Disabilities with respect to collection of debts under ~~Chapter 9 of Title 37~~, Article 1 of Chapter 11 of Title 19, and Code Section 49-4-15, and Chapter 9 of Title 37;

(B) The Georgia Student Finance Authority with respect to the collection of debts arising under Part 3 of Article 7 of Chapter 3 of Title 20;

(C) The Georgia Higher Education Assistance Corporation with respect to the collection of debts arising under Part 2 of Article 7 of Chapter 3 of Title 20;

(D) The State Medical Education Board with respect to the collection of debts arising under Part 6 of Article 7 of Chapter 3 of Title 20;

(E) The Department of Labor with respect to the collection of debts arising under Code Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the Department of Labor establishes that the debtor has been afforded required due process

rights by such Department of Labor with respect to the debt and all reasonable collection efforts have been exhausted;

(F) The Department of Corrections with respect to probation fees arising under Code Section 42-8-34 and restitution or reparation ordered by a court as a part of the sentence imposed on a person convicted of a crime who is in the legal custody of the department;

(G) The State Board of Pardons and Paroles with respect to restitution imposed on a person convicted of a crime and subject to the jurisdiction of the board; and

(H) The Department of Juvenile Justice with respect to restitution imposed on a juvenile for a delinquent act which would constitute a crime if committed by an adult.

(2) 'Debt' means any liquidated sum due and owing any claimant agency, which sum has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for the sum, any sum which is due and owing any person and is enforceable by the Department of Human ~~Resources~~ Services pursuant to subsection (b) of Code Section 19-11-8, or any sum of restitution or reparation due pursuant to a sentence imposed on a person convicted of a crime and sentenced to restitution or reparation and probation.

(3) 'Debtor' means any individual owing money to or having a delinquent account with any claimant agency, which obligation has not been adjudicated as satisfied by court order, set aside by court order, or discharged in bankruptcy.

(4) 'Refund' means the Georgia income tax refund which the department determines to be due any individual taxpayer."

SECTION 2-22.

Code Section 49-4A-5 of the Official Code of Georgia Annotated, relating to transfer of functions and employees of the Division of Youth Services, is amended by revising subsection (b) as follows:

"(b) Any employees of the Department of Juvenile Justice who became so employed by virtue of their transfer from the Division of Youth Services of the Department of Human Resources (now known as the Department of Human Services) on June 30, 1992, shall retain their compensation and benefits and such may not be reduced. Transferred employees who were subject to the State Merit System of Personnel Administration shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on July 1, 1992, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June

3905 30, 1992. Accrued annual and sick leave possessed by said employees on June 30, 1992,
3906 shall be retained by said employees as employees of the department."

3907 **SECTION 2-23.**

3908 Code Section 49-5-60 of the Official Code of Georgia Annotated, relating to definitions
3909 relative to employees' record checks for day-care centers, is amended by revising paragraph
3910 (1) as follows:

3911 "(1) 'Center' means a ~~child-caring institution or child-placing agency~~ child welfare
3912 agency, as defined in subsection (a) of Code Section 49-5-12, which is required to be
3913 licensed or registered under Article 1 of this chapter."

3914 **SECTION 2-24.**

3915 Code Section 49-5-69.1 of the Official Code of Georgia Annotated, relating to fingerprint
3916 and preliminary records check for foster homes, is amended as follows:

3917 "49-5-69.1.

3918 (a) No licensed ~~child-placing agency~~ child welfare agency, as defined in ~~this chapter~~
3919 subsection (a) of Code Section 49-5-12, shall place a child in a foster care home unless the
3920 foster parent or parents of the home and other adult persons that reside in the home or
3921 provide care to children placed in the home have received a satisfactory preliminary
3922 records check determination. Additionally, no child shall continue to be placed in such
3923 foster care home unless the foster parent or parents also subsequently receive a satisfactory
3924 fingerprint records check determination. A ~~child-placing agency~~ child welfare agency or
3925 any applicant for a license for such an agency shall be required to submit to the department
3926 a preliminary records check application and a records check application for the foster
3927 parent or parents of any foster care home used by the agency and a preliminary records
3928 check application for any other adult persons that reside in the home or provide care to
3929 children placed in the home. In lieu of such applications, the agency or license applicant
3930 may submit evidence, satisfactory to the department, that within the immediately preceding
3931 12 months such foster parent or parents or other adult persons have received a satisfactory
3932 fingerprint records check determination or a satisfactory preliminary records check
3933 determination.

3934 (b) After receiving or obtaining the fingerprint records check determinations or the
3935 preliminary records check determinations, the department shall notify in writing the agency
3936 or license applicant as to each person for whom an application was received regarding
3937 whether the department's determinations were satisfactory or unsatisfactory. If any such
3938 determinations are unsatisfactory, such homes shall not be used by the ~~child-placing agency~~
3939 child welfare agency as foster care homes.

3940 (c) The department shall have the authority to take any of the actions enumerated in
3941 subsection (c) of Code Section ~~31-2-6~~ 49-2-17 if a licensed ~~child-placing agency~~ child
3942 welfare agency or an applicant for such a license violates any provision of this Code
3943 section.

3944 (d) An executive director of a ~~child-placing agency~~ child welfare agency that uses a foster
3945 care home with a foster parent or parents or other adult persons referenced in this Code
3946 section whom the executive director knows or should reasonably know to have a criminal
3947 record shall be guilty of a misdemeanor.

3948 (e) In addition to any other requirement established by law, the submission of fingerprints
3949 shall be a prerequisite to the issuance of a license or authorization for the operation of a
3950 foster home or to serve as foster parents as provided in this article. Such fingerprints shall
3951 be used for the purposes of fingerprint checks by the Georgia Crime Information Center
3952 and the Federal Bureau of Investigation."

3953 SECTION 2-25.

3954 Code Section 49-6-60 of the Official Code of Georgia Annotated, relating to legislative intent
3955 for community care and services for the elderly, is amended as follows:

3956 "49-6-60.

3957 The purpose of this article is to assist functionally impaired elderly persons in living
3958 dignified and reasonably independent lives in their own homes or in the homes of relatives
3959 or caregivers through the development, expansion, reorganization, and coordination of
3960 various ~~community-based~~ community based services. In recognition of the desire of older
3961 Georgians to reside at home or with their families as long as possible, the General
3962 Assembly intends that a continuum of care be established so that functionally impaired
3963 elderly persons age 60 and older may be assured the least restrictive environment suitable
3964 to their needs. The General Assembly further intends to maximize the utilization of existing
3965 community social and health services in order to prevent unnecessary placement of
3966 individuals in long-term care facilities. The development of innovative approaches to
3967 program management, staff training, and service delivery that impact on cost avoidance,
3968 cost effectiveness, and program efficiency shall be encouraged. It is further the intent of
3969 the General Assembly that the Department of Human Resources (now known as the
3970 Department of Human Services) shall serve as the agency responsible for planning and
3971 implementing the provision of ~~community-based~~ community based services to the elderly
3972 reimbursable under the 'Georgia Medical Assistance Act of 1977.'

SECTION 2-26.

Code Section 49-8-4 of the Official Code of Georgia Annotated, relating to administration of "The Economic Rehabilitation Act of 1975," is amended by revising subsection (a) as follows:

"(a) For purposes of administration, responsibility for the coordination of community services and fiscal accountability shall be determined by the commissioner of human ~~resources~~ services.

SECTION 2-27.

Code Section 50-5-136 of the Official Code of Georgia Annotated, relating to the powers and authority of the State Use Council, is amended by revising paragraph (4) of subsection (b) as follows:

"(4) To oversee and assist in the development of guidelines for the certification of community based rehabilitation programs and training centers in the State of Georgia. The intent of these guidelines shall be to evaluate the qualifications and capabilities of community based rehabilitation programs and training centers interested in certification; to determine criteria for quality, efficiency, timeliness, and cost effectiveness in the production of goods, wares, merchandise, and services to be procured under the state use plan and purchased by the State of Georgia; and to establish a certification process which shall enable community based rehabilitation programs and training centers qualified under this process to compete in procurement activities provided for by this part. All community based rehabilitation programs and training centers which are certified by the commissioner of human resources (now known as the commissioner of human services for these purposes) as of February 8, 1994, shall not have to undergo the certification evaluation and approval process until 24 months from February 8, 1994;"

PART III

Department of Behavioral Health and Developmental Disabilities.

SECTION 3-1.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by revising Chapter 1 and Article 1 of Chapter 2, relating to general provisions and administration of mental health, developmental disabilities, addictive diseases, and other disability services, respectively, as follows:

"CHAPTER 1

ARTICLE 1

37-1-1.

As used in this title, the term:

(1) 'Addictive disease' means ~~the abuse of, addiction to, or dependence upon alcohol or other drugs and includes substance abuse~~ a chronic, often relapsing, brain disease that causes compulsive alcohol or drug seeking and use despite harmful consequences to the individual who is addicted and to those around him or her.

(2) 'Board' means the Board of ~~Human Resources~~ Behavioral Health and Developmental Disabilities.

(3) 'Commissioner' means the commissioner of ~~human resources~~ behavioral health and developmental disabilities.

(4) 'Community service board' means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6.

(5) 'Consumer' means a natural person who has been or is a recipient of disability services ~~as defined in Code Section 37-2-2~~.

(6) 'County board of health' means a county board of health established in accordance with Chapter 3 of Title 31 and includes its duly authorized agents.

(7) 'Department' means the Department of ~~Human Resources~~ Behavioral Health and Developmental Disabilities and includes its duly authorized agents and designees.

~~(8) 'Division' means the Division of Mental Health, Developmental Disabilities, and Addictive Diseases.~~

(8) 'Developmental disability' means a severe, chronic disability of an individual that:

(A) Is attributable to a significant intellectual disability, or any combination of a significant intellectual disability and physical impairments;

(B) Is manifested before the individual attains age 22;

(C) Is likely to continue indefinitely;

(D) Results in substantial functional limitations in three or more of the following areas of major life activities:

(i) Self-care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility;

(v) Self-direction; and

(vi) Capacity for independent living; and

4039 (E) Reflects the person's need for a combination and sequence of special,
 4040 interdisciplinary, or generic services, individualized supports, or other forms of
 4041 assistance which are of lifelong or extended duration and are individually planned and
 4042 coordinated.

4043 (9) 'Disability' means:

4044 (A) Mental or emotional illness;

4045 (B) Developmental disability; or

4046 (C) Addictive disease.

4047 (10) 'Disability services' means services to the disabled or services which are designed
 4048 to prevent or ameliorate the effect of a disability.

4049 (11) 'Disabled' means any person or persons having a disability.

4050 (12) 'Mentally ill' means having a mental illness.

4051 (13) 'Mental illness' means a disorder of thought or mood which significantly impairs
 4052 judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary
 4053 demands of life.

4054 ~~(9)~~(14) 'Peace officer' means any federal, city, or county police officer, any officer of the
 4055 Georgia State Patrol, or any sheriff or deputy sheriff.

4056 ~~(10)~~(15) 'Penal offense' means a violation of a law of the United States, this state, or a
 4057 political subdivision thereof for which the offender may be confined in a state prison or
 4058 a city or county jail or any other penal institution.

4059 ~~(11)~~(16) 'Physician' means any person duly authorized to practice medicine in this state
 4060 under Chapter 34 of Title 43.

4061 ~~(12)~~(17) 'Psychologist' means any person authorized under the laws of this state to
 4062 practice as a licensed psychologist as set forth in paragraph (3) of Code Section 43-39-1.

4063 ~~(13)~~(18) 'Regional board' means a regional ~~mental health, mental retardation, and~~
 4064 ~~substance abuse~~ board established in accordance with Code Section 37-2-4.1 as that Code
 4065 section existed on June 30, 2002.

4066 ~~(14)~~(19) 'Regional coordinator' means an employee of the department who acts as the
 4067 department's agent and designee to manage community ~~and hospital~~ services for
 4068 consumers of disability services within a mental health, developmental disabilities, and
 4069 addictive diseases region established in accordance with Code Section 37-2-3.

4070 ~~(15)~~(20) 'Regional office' means ~~a Division of Mental Health, Developmental~~
 4071 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ an office
 4072 created pursuant to Code Section 37-2-4.1. Such office shall be an office of the
 4073 department and serve as the entity for the administration of disability services in a region.

4074 ~~(16)(21)~~ 'Regional planning board' means a ~~mental health, developmental disabilities,~~
 4075 ~~and addictive diseases~~ planning board established in accordance with Code Section
 4076 37-2-4.1.

4077 ~~(17)(22)~~ 'Regional services administrator' means an employee of the department who,
 4078 under the supervision of the regional coordinator, manages the purchase or authorization
 4079 of services, or both, for consumers of disability services, the assessment and coordination
 4080 of services, and ongoing monitoring and evaluation of services provided within a ~~mental~~
 4081 ~~health, developmental disabilities, and addictive diseases~~ region established in
 4082 accordance with Code Section 37-2-3.

4083 ~~(18)(23)~~ 'Regional state hospital administrator' means the chief administrative officer of
 4084 a state owned or state operated hospital and the state owned or operated community
 4085 programs in a region. The regional state hospital administrator, ~~under the supervision of~~
 4086 ~~the regional coordinator,~~ has overall management responsibility for the regional state
 4087 hospital and manages services provided by employees of the regional state hospital and
 4088 employees of state owned or operated community programs within a mental health,
 4089 developmental disabilities, and addictive diseases region established in accordance with
 4090 Code Section 37-2-3.

4091 ~~(19)(24)~~ 'Resident' means a person who is a legal resident of the State of Georgia.

4092 (25) 'State mental health facility' means, for purposes of this title and Title 31, a hospital,
 4093 inpatient unit, or other institution operated by or under contract with the department for
 4094 its operation, including the replacement or reorganization of the facility.

4095 37-1-2.

4096 (a) The General Assembly finds that the state has a need to continually improve its system
 4097 for providing effective, efficient, and quality mental health, developmental disability, and
 4098 addictive disease services. ~~The General Assembly also finds that the needs of the publicly~~
 4099 ~~funded mental health, developmental disability, and addictive disease system and the state~~
 4100 ~~can best be met through reorganizing the regional mental health, mental retardation, and~~
 4101 ~~substance abuse boards and certain functions of the Department of Human Resources.~~
 4102 Further, the General Assembly finds that a comprehensive range of quality services and
 4103 opportunities is vitally important to the existence and well-being of individuals with mental
 4104 health, developmental disability, or addictive disease needs and their families. The General
 4105 Assembly further finds that the state has an obligation and a responsibility to develop and
 4106 implement planning and service delivery systems which focus on a core set of consumer
 4107 oriented, community based values and principles which include, but are not limited to, the
 4108 following:

- 4109 (1) Consumers and families should have choices about services and providers and should
 4110 have substantive input into the planning and delivery of all services;
- 4111 (2) A single point of accountability should exist for fiscal, service, and administrative
 4112 issues to ensure better coordination of services among all programs and providers and to
 4113 promote cost-effective, efficient service delivery and administration;
- 4114 (3) The system should be appropriately comprehensive and adaptive to allow consumers
 4115 and their families to access the services they desire and need;
- 4116 (4) Public programs are the foundation of the service planning and delivery system and
 4117 they should be valued and nurtured; at the same time, while assuring comparable
 4118 standards of quality, private sector involvement should be increased to allow for
 4119 expanded consumer choice and improved cost effectiveness;
- 4120 (5) Planning should ~~reside~~ begin at the local level, ~~with the primary authority vested in~~
 4121 and include local government, consumers, families, advocates, and other interested local
 4122 parties;
- 4123 (6) The system should ensure that the needs of consumers who are most in need are met
 4124 at the appropriate service levels; at the same time, prevention strategies should be
 4125 emphasized for those disabilities which are known to be preventable;
- 4126 (7) The system should be designed to provide the highest quality of services utilizing
 4127 flexibility in funding, incentives, and outcome evaluation techniques which reinforce
 4128 quality, accountability, efficiency, and consumer satisfaction;
- 4129 (8) The functions of service planning, coordination, contracting, resource allocation, and
 4130 consumer assessment should be separated from the actual treatment, habilitation, and
 4131 prevention services provided by contractors;
- 4132 (9) Consumers and families should have a single, community based point of entry into
 4133 the system;
- 4134 (10) Consumers, staff, providers, and regional planning board and community service
 4135 board members should receive ongoing training and education and should have access
 4136 to key management resources such as information systems and technical and professional
 4137 support services; and
- 4138 (11) The department is responsible for ensuring the appropriate use of state, federal, and
 4139 other funds to provide quality services for individuals with mental health, developmental
 4140 disabilities, or addictive disease needs who are served by the public system and to protect
 4141 consumers of these services from abuse and maltreatment.
- 4142 (b) Local governments, specifically county governing authorities, have provided
 4143 outstanding leadership and support for mental health, developmental disability, and
 4144 addictive disease programs, and the General Assembly finds that their investments, both
 4145 personal and capital, should be valued and utilized in any improved system. As such, the

state and any new governing structure should take special precautions to ensure that the county governing authorities have an expanded level of input into decision making and resource allocation and that any services or programs should continue to use and expand their use of county facilities and resources wherever appropriate and possible.

(c) The purpose of this chapter and Chapter 2 of this title is to provide for a comprehensive and improved mental health, developmental disability, and addictive disease services planning and delivery system in this state which will develop and promote the essential public interests of the state and its citizens. The provisions of this chapter and Chapter 2 of this title shall be liberally construed to achieve their purposes.

37-1-3.

(a) There is created the Board of Behavioral Health and Developmental Disabilities which shall establish the general policy to be followed by the Department of Behavioral Health and Developmental Disabilities. The powers, functions, and duties of the Board of Human Resources as they existed on June 30, 2009, with regard to the Division of Mental Health, Developmental Disabilities, and Addictive Diseases are transferred to the Board of Behavioral Health and Developmental Disabilities effective July 1, 2009. The board shall consist of nine members appointed by the Governor and confirmed by the Senate.

(b) The Governor shall designate the initial terms of the members of the board as follows: three members shall be appointed for one year; three members shall be appointed for two years; and three members shall be appointed for three years. Thereafter, all succeeding appointments shall be for three-year terms from the expiration of the previous term.

(c) Vacancies in office shall be filled by appointment by the Governor in the same manner as the appointment to the position on the board which becomes vacant. An appointment to fill a vacancy other than by expiration of a term of office shall be for the balance of the unexpired term.

(d) Members of the board may be removed from office under the same conditions for removal from office of members of professional licensing boards provided in Code Section 43-1-17.

(e) There shall be a chairperson of the board elected by and from the membership of the board who shall be the presiding officer of the board.

(f) The members of the board shall receive a per diem allowance and expenses as shall be set and approved by the Office of Planning and Budget in conformance with rates and allowances set for members of other state boards.

4179 37-1-4.

4180 (a) There is created a Department of Behavioral Health and Developmental Disabilities.
4181 The powers, functions, and duties of the Department of Human Resources as they existed
4182 on June 30, 2009, relating to the Division of Mental Health, Developmental Disabilities,
4183 and Addictive Diseases are transferred to the Department of Behavioral Health and
4184 Developmental Disabilities effective July 1, 2009.

4185 (b) There is created the position of commissioner of behavioral health and developmental
4186 disabilities. The commissioner shall be the chief administrative officer of the department
4187 and be both appointed and removed by the board, subject to the approval of the Governor.
4188 Subject to the general policy established by the board, the commissioner shall supervise,
4189 direct, account for, organize, plan, administer, and execute the functions vested in the
4190 department.

4191 (c) There shall be created in the department such divisions as may be found necessary for
4192 its effective operation. The commissioner shall have the power to allocate and reallocate
4193 functions among the divisions within the department.

4194 37-1-5.

4195 (a) The Department of Behavioral Health and Developmental Disabilities shall succeed
4196 to all rules, regulations, policies, procedures, and administrative orders of the Department
4197 of Human Resources that are in effect on June 30, 2009, or scheduled to go into effect on
4198 or after July 1, 2009, and which relate to the functions transferred to the Department of
4199 Behavioral Health and Developmental Disabilities pursuant to Code Section 37-1-4 and
4200 shall further succeed to any rights, privileges, entitlements, obligations, and duties of the
4201 Department of Human Resources that are in effect on June 30, 2009, which relate to the
4202 functions transferred to the Department of Behavioral Health and Developmental
4203 Disabilities pursuant to Code Section 37-1-4. Such rules, regulations, policies, procedures,
4204 and administrative orders shall remain in effect until amended, repealed, superseded, or
4205 nullified by the Department of Behavioral Health and Developmental Disabilities by proper
4206 authority or as otherwise provided by law.

4207 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,
4208 agreements, and other transactions entered into before July 1, 2009, by the Department of
4209 Human Resources which relate to the functions transferred to the Department of Behavioral
4210 Health and Developmental Disabilities pursuant to Code Section 37-1-4 shall continue to
4211 exist; and none of these rights, privileges, entitlements, and duties are impaired or
4212 diminished by reason of the transfer of the functions to the Department of Behavioral
4213 Health and Developmental Disabilities. In all such instances, the Department of
4214 Behavioral Health and Developmental Disabilities shall be substituted for the Department

of Human Resources, and the Department of Behavioral Health and Developmental Disabilities shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(c) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of Behavioral Health and Developmental Disabilities pursuant to Code Section 37-1-4 on June 30, 2009, shall, on July 1, 2009, become employees of the Department of Behavioral Health and Developmental Disabilities in similar capacities, as determined by the commissioner of behavioral health and developmental disabilities. Such employees shall be subject to the employment practices and policies of the Department of Behavioral Health and Developmental Disabilities on and after July 1, 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be retained by said employees as employees of the Department of Behavioral Health and Developmental Disabilities.

(d) On July 1, 2009, the Department of Behavioral Health and Developmental Disabilities shall receive custody of the state owned real property in the custody of the Department of Human Resources on June 30, 2009, and which pertains to the functions transferred to the Department of Behavioral Health and Developmental Disabilities pursuant to Code Section 37-1-4.

ARTICLE 2

37-1-20.

~~(a) The Division of Mental Health, Developmental Disabilities, and Addictive Diseases shall be a division of the department and shall be managed by a director whose qualifications meet standards set by the board.~~

~~(b) The department, through the division, shall:~~

- ~~(1) Establish, administer, and supervise the state programs for mental health, developmental disabilities, and addictive diseases;~~

4250 (2) Direct, supervise, and control the medical and physical care; and treatment, and
 4251 rehabilitation; recovery; and social, employment, housing, and community supports and
 4252 services based on single or co-occurring diagnoses provided by the institutions,
 4253 contractors, and programs under its control, management, or supervision;

4254 (3) Plan for and implement the coordination of mental health, developmental disability,
 4255 and addictive disease services with physical health services, and the prevention of any of
 4256 these diseases or conditions, and develop and promulgate rules and regulations to require
 4257 that all health services be coordinated and that the public and private providers of any of
 4258 these services that receive state support notify other providers of services to the same
 4259 patients of the conditions, treatment, and medication regimens each provider is
 4260 prescribing and delivering;

4261 (4) Ensure that providers of mental health, developmental disability, or addictive disease
 4262 services coordinate with providers of primary and specialty health care so that treatment
 4263 of conditions of the brain and the body can be integrated to promote recovery, health, and
 4264 well-being;

4265 ~~(3)~~(5) Have authority to contract for services with community service boards, private
 4266 agencies, and other public entities for the provision of services within a service area so
 4267 as to provide an adequate array of services; and choice of providers for consumers; and
 4268 to comply with the applicable federal laws, rules, and regulations related to public or
 4269 private hospitals; hospital authorities; medical schools and training and educational
 4270 institutions; departments and agencies of this state; county or municipal governments;
 4271 any person, partnership, corporation, or association, whether public or private; and the
 4272 United States government or the government of any other state;

4273 ~~(4)~~(6) Establish and support programs for the training of professional and technical
 4274 personnel as well as regional planning boards and community service boards;

4275 ~~(5)~~(7) Have authority to conduct research into the causes and treatment of disability and
 4276 into the means of effectively promoting mental health and addictive disease recovery;

4277 ~~(6)~~(8) Assign specific responsibility to one or more units of the ~~division~~ department for
 4278 the development of a disability prevention program. The objectives of such program
 4279 shall include, but are not limited to, monitoring of completed and ongoing research
 4280 related to the prevention of disability, implementation of programs known to be
 4281 preventive, and testing, where practical, of those measures having a substantive potential
 4282 for the prevention of disability;

4283 ~~(7)~~(9) Establish a system for regional administration of mental health, developmental
 4284 disability, and addictive disease services in institutions and in the community ~~under the~~
 4285 ~~supervision of a regional coordinator;~~

4286 ~~(8)~~(10) Make and administer budget allocations to regional offices ~~of the division~~
 4287 established by the board pursuant to Code Section 37-2-4.1 to fund the operation of
 4288 mental health, developmental disabilities, and addictive diseases facilities and programs;
 4289 ~~(9)~~(11) Coordinate in consultation with providers, professionals, and other experts the
 4290 development of appropriate outcome measures for client centered service delivery
 4291 systems;
 4292 ~~(10)~~(12) Establish, operate, supervise, and staff programs and facilities for the treatment
 4293 of disabilities throughout this state;
 4294 ~~(11)~~(13) Disseminate information about available services and the facilities through
 4295 which such services may be obtained;
 4296 ~~(12)~~(14) Supervise the regional office's exercise of its responsibility and authority
 4297 concerning funding and delivery of disability services;
 4298 ~~(13)~~(15) Supervise the regional offices concerning the receipt and administration of
 4299 grants, gifts, moneys, and donations for purposes pertaining to mental health,
 4300 developmental disabilities, and addictive diseases;
 4301 ~~(14)~~(16) Supervise the ~~regional offices concerning making~~ administration of contracts
 4302 with any hospital, community service board, or any public or private providers without
 4303 regard to regional or state boundaries for the provision of disability services and in
 4304 making and entering into all contracts necessary or incidental to the performance of the
 4305 duties and functions of the ~~division~~ department and the regional offices;
 4306 ~~(15)~~(17) Regulate the delivery of care, including behavioral interventions and medication
 4307 administration by licensed staff, or certified staff as determined by the ~~division~~
 4308 department, within residential settings serving only persons who are receiving services
 4309 authorized or financed, in whole or in part, by the ~~division~~; department;
 4310 ~~(16)~~(18) Classify '~~community living arrangements~~' and '~~host homes~~' host homes for
 4311 persons whose services are financially supported, in whole or in part, by funds authorized
 4312 through the department ~~Division of Mental Health, Developmental Disabilities, and~~
 4313 ~~Addictive Diseases of the Department of Human Resources~~. As used in this Code
 4314 section, the term:
 4315 (A) '~~Community living arrangement~~' means any residence, whether operated for profit
 4316 or not, which undertakes through its ownership or management to provide or arrange
 4317 for the provision of housing, food, one or more personal services, supports, care, or
 4318 treatment exclusively for two or more persons who are not related to the owner or
 4319 administrator of the residence by blood or marriage;
 4320 (B) '~~Host~~ host home' means a private residence in a residential area in which the
 4321 occupant owner or lessee provides housing and provides or arranges for the provision
 4322 of food, one or more personal services, supports, care, or treatment exclusively for one

or two persons who are not related to the occupant owner or lessee by blood or marriage. A host home shall be occupied by the owner or lessee, who shall not be an employee of the same community provider which provides the host home services by contract with the ~~division~~ department. The ~~division~~ department shall approve and enter into agreements with community providers which, in turn, contract with host homes. The occupant owner or lessee shall not be the guardian of any person served or of their property nor the agent in such person's advance directive for health care. The placement determination for each person placed in a host home shall be made according to such person's choice as well as the individual needs of such person in accordance with the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person; and

~~(17)~~(19) Provide guidelines for and oversight of host homes, which may include, but not be limited to, criteria to become a host home, requirements relating to physical plants and supports, placement procedures, and ongoing oversight requirements;

~~(c) The department shall:~~

~~(1)~~(20) Establish a unit of the department which shall receive and consider complaints from individuals receiving services, make recommendations to the ~~director of the division~~ commissioner regarding such complaints, and ensure that the rights of individuals receiving services are fully protected;

(21) With respect to housing opportunities for persons with mental illness and co-occurring disorders:

(A) Coordinate the department's programs and services with other state agencies and housing providers;

(B) Facilitate partnerships with local communities;

(C) Educate the public on the need for supportive housing;

(D) Collect information on the need for supportive housing and monitor the benefit of such housing; and

(E) Identify and determine best practices for the provision of services connected to housing;

~~(2)~~(22) Exercise all powers and duties provided for in this title or which may be deemed necessary to effectuate the purposes of this title;

~~(3)~~(23) Assign specific responsibility to one or more units of the ~~division~~ department for the development of programs designed to serve disabled infants, children, and youth. To the extent practicable, such units shall cooperate with the Georgia Department of Education and the University System of Georgia in developing such programs; and

(24) Have the right to designate private institutions as state institutions; to contract with such private institutions for such activities, in carrying out this title, as the department

4360 may deem necessary from time to time; and to exercise such supervision and cooperation
4361 in the operation of such designated private institutions as the department may deem
4362 necessary.

4363 ~~(4) Classify and license community living arrangements, as defined in paragraph (16) of~~
4364 ~~subsection (b) of this Code section, in accordance with the rules and regulations~~
4365 ~~promulgated by the department for the licensing of community living arrangements and~~
4366 ~~the enforcement of licensing requirements. To be eligible for licensing as a community~~
4367 ~~living arrangement, the residence and services provided must be integrated within the~~
4368 ~~local community. All community living arrangements licensed by the department shall~~
4369 ~~be subject to the provisions of Code Sections 31-2-6 and 31-7-2.2. No person, business~~
4370 ~~entity, corporation, or association, whether operated for profit or not for profit, may~~
4371 ~~operate a community living arrangement without first obtaining a license or provisional~~
4372 ~~license from the department. A license issued under this article is not assignable or~~
4373 ~~transferable.~~

4374 37-1-21.

4375 (a) The department is designated and empowered as the agency of this state responsible
4376 for supervision and administrative control of: state facilities for the treatment of mental
4377 illness or the habilitation and treatment of individuals with developmental disabilities; ~~state~~
4378 ~~hospitals for the treatment of tubercular patients;~~ programs for the care, custody, and
4379 treatment of addictive disease; and other facilities, institutions, or programs which now or
4380 hereafter come under the supervision and administrative control of the department. With
4381 respect to all such facilities, institutions, or programs the department shall have the
4382 following powers and duties:

4383 (1) To create all necessary offices, appoint and remove all officers of such facilities,
4384 institutions, or programs, prescribe and change the duties of such officers from time to
4385 time, and fix their salaries as provided for by the pay plan covering positions under the
4386 State Merit System of Personnel Administration and in accordance with rules and
4387 regulations of the State Personnel Board, except that the commissioner shall not be
4388 subject to the State Merit System of Personnel Administration or the rules and regulations
4389 of the State Personnel Board. The department shall discharge and cause to be prosecuted
4390 any officer or other person who shall assault any patient in any of such facilities or
4391 institutions or who shall knowingly use toward any such patient any other or greater force
4392 than the occasion may require;

4393 (2) To refuse or accept and hold in trust for any such facility, institution, or program any
4394 grant or devise of land or bequest or donation of money or other property for the

4395 particular use specified or, if no use is specified, for the general use of such facility,
4396 institution, or program;

4397 (3) To bring suit in its name for any claims which any such facility or institution may
4398 have, however arising;

4399 (4) To appoint police of such facilities, institutions, or programs who are authorized,
4400 while on the grounds or in the buildings of the respective facilities, institutions, or
4401 programs to make arrests with the same authority, power, privilege, and duties as the
4402 sheriffs of the respective counties in which such facilities, institutions, or programs are
4403 situated. If because of the contagious or infectious nature of the disease of persons
4404 arrested facilities are not available for their detention, such police shall be authorized to
4405 confine such persons within the respective facilities, institutions, or programs pending
4406 trial as provided in other cases. After trial and conviction of any such person, he or she
4407 shall be sentenced to serve his or her term of sentence in the secured ward of the facility,
4408 institution, or program; and

4409 (5) To have full authority to receive and treat patients ordered admitted to such facilities,
4410 institutions, or programs pursuant to any law, to receive any voluntary patients, to
4411 discharge such patients pursuant to law, to contract with patients or other persons acting
4412 on behalf of patients or legally responsible therefor, and in general to exercise any power
4413 or function with respect to patients provided by law. It is the intent of the General
4414 Assembly to provide always the highest quality of diagnosis, treatment, custody, and care
4415 consistent with medical, therapeutic, and habilitative evidence based practice and
4416 knowledge. It is the further intent of the General Assembly that the powers and duties
4417 of the department with respect to patients shall be administered by persons properly
4418 trained professionally for the exercise of their duties, consistent with the intention
4419 expressed in this Code section.

4420 (b) The board is empowered to prescribe all rules and regulations for the management of
4421 such facilities, institutions, and programs not conflicting with the law.

4422 37-1-22.

4423 The board shall adopt and promulgate written rules, regulations, and standards as may be
4424 deemed necessary to effectuate the purposes of this title and which shall be the basis of
4425 state financial participation in mental health, developmental disabilities, and addictive
4426 diseases programs.

4427 37-1-23.

4428 The board is directed to prescribe rules of practice and procedure in order to implement this
4429 chapter. The department ~~and the division are~~ is directed to make the board's and the
4430 department's rules available for distribution.

4431 37-1-24.

4432 No provision in this title shall require the department or any facility or private facility or
4433 any community service board to utilize a physician in lieu of a psychologist or a
4434 psychologist in lieu of a physician in performing functions under this title even though this
4435 title authorizes either a physician or a psychologist to perform the function.

4436 37-1-25.

4437 The department is authorized to purchase land or lands adjacent to or near lands now under
4438 the control of the department where, in the opinion of the department, the land is needed
4439 for the benefit of one of the institutions under its control and management, to pay for such
4440 land out of any funds which may be available for such purpose, and to take title to land so
4441 purchased in the name of the State of Georgia for the use of the department.

4442 37-1-26.

4443 (a) The department shall sell, to the best advantage, all surplus products of the Central
4444 State Hospital or other institutions under the control and supervision of the department and
4445 shall apply the proceeds thereof to the maintenance of the institution from which such
4446 surplus products are received. Should any surplus funds arise from this source, they shall
4447 be paid into the state treasury annually; and the department shall, at the end of each quarter,
4448 make a detailed report of all such transactions to the Governor.

4449 (b) It is not the intention of this Code section to encourage competition in any way by the
4450 state, its institutions, agencies, departments or branches, or other subdivisions with the
4451 individual, private farmers of this state, or others, in the production and sale of agricultural
4452 or industrial commodities or products in due course of commerce.

4453 37-1-27.

4454 (a) The General Assembly makes the following findings:

4455 (1) Every year in Georgia, approximately 850 people die from suicide;

4456 (2) More Georgians die from suicide than from homicide;

4457 (3) More teenagers and young adults die from suicide than from cancer, heart disease,
4458 AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease combined;

4459 (4) Many who attempt suicide do not seek professional help after the attempt;

- 4460 (5) In Georgia, three out of four suicide deaths involve a firearm;
4461 (6) Factors such as aging, drug and alcohol abuse, unemployment, mental illness,
4462 isolation, and bullying in school contribute to causes of suicide; and
4463 (7) Education is necessary to inform the public about the causes of suicide and the early
4464 intervention programs that are available.
4465 (b) There is created the Suicide Prevention Program to be managed by the department.
4466 (c) The department, in implementing the Suicide Prevention Program, shall:
4467 (1) Establish a link between state agencies and offices, including but not limited to the
4468 Division of Aging Services and Division of Family and Children Services of the
4469 Department of Human Services, the Department of Community Health, local government
4470 agencies, health care providers, hospitals, nursing homes, and jails to collect data on
4471 suicide deaths and attempted suicides;
4472 (2) Work with public officials to improve firearm safety;
4473 (3) Improve education for nurses, judges, physician assistants, social workers,
4474 psychologists, and other counselors with regard to suicide education and prevention and
4475 expand educational resources for professionals working with those persons most at risk
4476 of suicide;
4477 (4) Provide training and minimal screening tools for clergy, teachers and other
4478 educational staff, and correctional workers on how to identify and respond to persons at
4479 risk of suicide;
4480 (5) Provide educational programs for family members of persons at an elevated risk of
4481 suicide;
4482 (6) Develop standardized protocols to be used by the department in reviewing suicide
4483 death scene investigations;
4484 (7) Work to increase the number of follow-back studies of suicides;
4485 (8) Work to increase the number of hospitals that code for external causes of injury;
4486 (9) Implement a state-wide reporting system for reporting suicides;
4487 (10) Support pilot projects to link and analyze information on self-destructive behavior
4488 from various, distinct data systems; and
4489 (11) Perform such other tasks as deemed appropriate to further suicide education and
4490 prevention in Georgia.
4491 (d) The Suicide Prevention Program shall coordinate with and receive technical assistance
4492 from epidemiologists and other staff of the Division of Public Health of the Department of
4493 Community Health to support the research and outreach efforts related to this program.

37-1-28.

(a) As used in this Code section, the term 'conviction data' means a record of a finding or verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime, regardless of whether an appeal of the conviction has been sought.

(b) The department may receive from any law enforcement agency conviction data that is relevant to a person whom the department, its contractors, or a district or county health agency is considering as a final selectee for employment in a position the duties of which involve direct care, treatment, custodial responsibilities, or any combination thereof for its clients. The department may also receive conviction data which is relevant to a person whom the department, its contractors, or a district or county health agency is considering as a final selectee for employment in a position if, in the judgment of the employer, a final employment decision regarding the selectee can only be made by a review of conviction data in relation to the particular duties of the position and the security and safety of clients, the general public, or other employees.

(c) The department shall establish a uniform method of obtaining conviction data under subsection (a) of this Code section which shall be applicable to the department and its contractors. Such uniform method shall require the submission to the Georgia Crime Information Center of fingerprints and the records search fee in accordance with Code Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of its own records and records to which it has access. After receiving the fingerprints and fee, the Georgia Crime Information Center shall notify the department in writing of any derogatory finding, including, but not limited to, any conviction data regarding the fingerprint records check or if there is no such finding.

(d) All conviction data received shall be for the exclusive purpose of making employment decisions or decisions concerning individuals in the care of the department and shall be privileged and shall not be released or otherwise disclosed to any other person or agency. Immediately following the employment decisions or upon receipt of the conviction data, all such conviction data collected by the department or its agent shall be maintained by the department or agent pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as is applicable. Penalties for the unauthorized release or disclosure of any conviction data shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as is applicable.

(e) The department may promulgate written rules and regulations to implement the provisions of this Code section.

(f) The department may receive from any law enforcement agency criminal history information, including arrest and conviction data, and any and all other information which it may be provided pursuant to state or federal law which is relevant to any person in the care of the department. The department shall establish a uniform method of obtaining criminal history information under this subsection. Such method shall require the submission to the Georgia Crime Information Center of fingerprints together with any required records search fee in accordance with Code Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit the fingerprints submitted by the department to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of its own records and records to which it has access. Such method shall also permit the submission of the names alone of such persons to the proper law enforcement agency for a name based check of such person's criminal history information as maintained by the Georgia Crime Information Center and the Federal Bureau of Investigation. In such circumstances, the department shall submit fingerprints of those persons together with any required records search fee, to the Federal Bureau of Investigation within 15 calendar days of the date of the name based check on that person. The fingerprints shall be forwarded to the Federal Bureau of Investigation through the Georgia Crime Information Center in accordance with Code Section 35-3-35. Following the submission of such fingerprints, the department may receive the criminal history information, including arrest and conviction data, relevant to such person.

(g) The department shall be authorized to conduct a name or descriptor based check of any person's criminal history information, including arrest and conviction data, and other information from the Georgia Crime Information Center regarding any adult person who provides care or is in contact with persons under the care of the department without the consent of such person and without fingerprint comparison to the fullest extent permissible by federal and state law.

ARTICLE 3

37-1-40.

All rules and regulations of the Board of ~~Human Resources~~ Behavioral Health and Developmental Disabilities shall be adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

ARTICLE 4

37-1-50.

(a) No license, permit, or certificate or other similar right shall be revoked or suspended without opportunity for a hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any such hearing or appeal related thereto shall be conducted in accordance with such Act.

(b) The department is authorized and empowered to employ and appoint hearing examiners to conduct hearings, issue compulsory process, administer oaths, and submit their findings and recommendations to the appointing agency; provided, however, that any such examiner shall be a member of the State Bar of Georgia in good standing.

37-1-51.

Reserved.

37-1-52.

Reserved.

37-1-53.

Notwithstanding any other provision of law to the contrary, the department is authorized by regulation to classify as confidential and privileged documents, reports, and other information and data obtained by them from persons, firms, corporations, municipalities, counties, and other public authorities and political subdivisions where such matters relate to secret processes, formulas, and methods or where such matters were obtained or furnished on a confidential basis. All matters so classified shall not be subject to public inspection or discovery and shall not be subject to production or disclosure in any court of law or elsewhere until and unless the judge of the court of competent jurisdiction, after in camera inspection, determines that the public interest requires such production and disclosure or that such production and disclosure may be necessary in the interest of justice. This subsection shall not apply to clinical records maintained pursuant to Code Sections 37-3-166, 37-3-167, 37-4-125, 37-4-126, 37-7-166, and 37-7-167.

ARTICLE 5

Part 1

37-1-70.

As used in this ~~chapter~~ part, the term:

(1) 'Inspection warrant' means a warrant authorizing a search or inspection of private property where such a search or inspection is one that is necessary for the enforcement of a '~~public~~ mental health law.'

(2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and 37-4-4, Chapter 6 of this title, and any rule or regulation duly promulgated thereunder.

37-1-71.

The commissioner or the commissioner's delegate, in addition to other procedures now or hereafter provided, may obtain an inspection warrant under the conditions specified in this chapter. Such warrant shall authorize the commissioner or the commissioner's delegate to conduct a search or inspection of property either with or without the consent of the person whose property is to be searched or inspected if such search or inspection is one that is elsewhere authorized under the rules and regulations duly promulgated under this title.

37-1-72.

(a) Inspection warrants shall be issued only by a judge of a court of record whose territorial jurisdiction encompasses the property to be inspected.

(b) The issuing judge shall issue the warrant when ~~he~~ the judge is satisfied that the following conditions are met:

(1) The one seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property; and

(2) The issuing judge determines that the issuance of the warrant is authorized by this ~~chapter~~ part.

37-1-73.

The inspection warrant shall be validly issued only if it meets the following requirements:

(1) The warrant is attached to the affidavit required to be made in order to obtain the warrant;

4622 (2) The warrant describes either directly or by reference to the affidavit the property
4623 upon which the inspection is to occur and is sufficiently accurate that the executor of the
4624 warrant and the owner or possessor of the property can reasonably determine from it the
4625 property of which the warrant authorizes an inspection;
4626 (3) The warrant indicates the conditions, objects, activities, or circumstances which the
4627 inspection is intended to check or reveal; and
4628 (4) The warrant refers in general terms to the statutory or regulatory provisions sought
4629 to be enforced.

4630 37-1-74.

4631 No facts discovered or evidence obtained in an inspection conducted under authority of an
4632 inspection warrant issued pursuant to this ~~chapter~~ part shall be competent as evidence in
4633 any criminal proceeding against any party.

4634 Part 2

4635 37-1-90.

4636 The Department of ~~Human Resources~~ Behavioral Health and Developmental Disabilities
4637 is empowered to institute appropriate proceedings for injunction in the courts of competent
4638 jurisdiction in this state for the purpose of enjoining a violation of any provision of this title
4639 as now existing or as may be hereafter amended or of any regulation or order duly issued
4640 by the board or department. The department is also empowered to maintain action for
4641 injunction to abate any public nuisance which is injurious to the public health, safety, or
4642 comfort. Such actions may be maintained notwithstanding the fact that such violation also
4643 constitutes a crime and notwithstanding that other adequate remedies at law exist. Such
4644 actions may be instituted in the name of the department in the county in which a violation
4645 of any provision of this title occurs.

4646 Part 3

4647 37-1-100.

4648 Any person violating the provisions of this title shall be guilty of a misdemeanor.

CHAPTER 2

ARTICLE 1

37-2-1.

(a) The State of Georgia recognizes its responsibility for its citizens who are mentally ill or developmentally disabled including individuals with epilepsy, cerebral palsy, autism, and other neurologically disabling conditions or who abuse alcohol, narcotics, or other drugs and recognizes an obligation to such citizens to meet their needs through a coordinated system of community facilities, programs, and services.

(b) It is the policy of this state to provide adequate mental health, developmental disability, addictive disease, and other disability services to all its citizens. It is further the policy of this state to provide such services through a unified system which encourages cooperation and sharing of resources among all providers of such services, both governmental and private.

(c) It is the purpose of this chapter to enable and encourage the development of comprehensive, preventive, early detection, habilitative, rehabilitative, and treatment disability services; to improve and expand community programs for the disabled; to provide continuity of care through integration of county, area, regional, and state services and facilities for the disabled; to provide for joint disability services and the sharing of manpower and other resources; and to monitor and restructure the system of providing disability services in the State of Georgia to make better use of the combined public and private resources of the state and local communities.

(d) The provisions of this chapter shall be liberally construed to achieve the objectives set forth in this Code section.

37-2-2.

As used in this chapter, the term:

~~(1) 'Addictive disease' means the abuse of, addiction to, or dependence upon alcohol or other drugs and includes substance abuse.~~

~~(2)~~(1) 'Community service board' means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6.

~~(2.1)~~(2) 'Community service board area' means an area inclusive of the counties which fall within the boundaries of a community service board as designated by the ~~division~~ department pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community service board.

4682 ~~(2.2)~~(3) 'Community service board service area' means a community service board area
 4683 and any other county or portion thereof in which the community service board provides
 4684 services.

4685 ~~(3) 'Consumer' means a natural person who has been or is a recipient of disability~~
 4686 ~~services as defined in this Code section.~~

4687 (4) 'Council' means the Behavioral Health Coordinating Council established pursuant to
 4688 Code Section 37-2-4.

4689 ~~(4) 'Developmental disability' includes mental retardation and other neurologically~~
 4690 ~~disabling conditions, including epilepsy, cerebral palsy, and autism, which require~~
 4691 ~~treatment similar to that for individuals with mental retardation.~~

4692 ~~(5) 'Director' means the director of the Division of Mental Health, Developmental~~
 4693 ~~Disabilities, and Addictive Diseases.~~

4694 ~~(6) 'Disability' means:~~

4695 ~~(A) Mental or emotional illness;~~
 4696 ~~(B) Developmental disability; or~~
 4697 ~~(C) Addictive disease.~~

4698 ~~(7) 'Disability services' means services to the disabled or services which are designed to~~
 4699 ~~prevent or ameliorate the effect of a disability.~~

4700 ~~(8) 'Disabled' means any person or persons having a disability.~~

4701 ~~(9) 'Division' means the Division of Mental Health, Developmental Disabilities, and~~
 4702 ~~Addictive Diseases of the Department of Human Resources.~~

4703 (5) 'Health services' means any education or service provided by the department, the
 4704 Department of Community Health, or the Department of Human Services, either directly
 4705 or by contract.

4706 ~~(10)~~(6) 'Hospital' means a state owned or state operated facility providing services which
 4707 include, but are not limited to, inpatient care and the diagnosis, care, and treatment or
 4708 habilitation of the disabled. Such hospital may also provide or manage state owned or
 4709 operated programs in the community.

4710 ~~(11) 'Regional board' means a regional mental health, mental retardation, and substance~~
 4711 ~~abuse board established in accordance with Code Section 37-2-4.1 as that Code section~~
 4712 ~~existed on June 30, 2002.~~

4713 ~~(12) 'Regional office' means the Division of Mental Health, Developmental Disabilities,~~
 4714 ~~and Addictive Diseases of the Department of Human Resources office created pursuant~~
 4715 ~~to Code Section 37-2-4.1. Such office shall be an office of the division which shall serve~~
 4716 ~~as the entity for the administration of disability services in a region.~~

4717 (13) ~~'Regional planning board' means a regional mental health, developmental~~
4718 ~~disabilities, and addictive diseases board established in accordance with Code Section~~
4719 ~~37-2-4.1.~~

4720 ~~37-2-2.1.~~

4721 ~~The Department of Human Resources shall have a Division of Mental Health,~~
4722 ~~Developmental Disabilities, and Addictive Diseases.~~

4723 37-2-3.

4724 (a) The board shall designate boundaries for mental health, developmental disabilities, and
4725 addictive diseases regions and may modify the boundaries of such regions from time to
4726 time as deemed necessary by the board.

4727 (b) The ~~division~~ department, with the approval of the commissioner, shall designate
4728 community service board areas, which shall serve as boundaries for the establishment of
4729 community service boards within this state for the purpose of delivering disability services.
4730 The ~~division~~ department shall be authorized to initiate the redesignation of such community
4731 service board area boundaries and may consider requests from a county or group of
4732 counties or a community service board or a group of community service boards for
4733 recommended changes to the boundaries of the community service board areas. The
4734 ~~division~~ department, with the approval of the commissioner, is authorized to redesignate
4735 two or more contiguous community service board areas as a single community service
4736 board area upon the request of the community service boards serving such areas; and, if so
4737 authorized, the assets, equipment, and resources of such community service boards shall
4738 become the assets, equipment, and resources of the reconstituted community service board
4739 serving the successor single board area. It is the intent of the General Assembly not to
4740 limit a community service board to serving only those counties within the boundaries of
4741 its community service board area.

4742 (c) To the extent practicable, the boundaries for regional planning boards and offices and
4743 community service areas shall not subdivide any county unit or conflict with any districts
4744 established by the ~~department~~ Department of Community Health and the state relating to
4745 the planning for, or delivery of, health services. In dividing the state into areas, the board;
4746 and the department, ~~and the division~~ shall take into consideration such factors as
4747 geographic boundaries, roads and other means of transportation, population concentrations,
4748 city and county lines, other relevant community services, and community economic and
4749 social relationships. Consideration shall also be given to the existence of facilities and
4750 personnel available in the areas for the delivery of disability services.

4751 37-2-4.

4752 (a) ~~The Governor shall appoint, fund, and provide staff assistance to a Governor's~~
 4753 ~~Advisory Council for Mental Health, Developmental Disabilities, and Addictive Diseases,~~
 4754 ~~referred to in this chapter as the 'Governor's council.' The Governor's council shall consist~~
 4755 ~~of no more than 30 and no less than 15 members, who shall be representative of~~
 4756 ~~professional and lay individuals, organizations, and state agencies associated or involved~~
 4757 ~~with services for the disabled. Such members shall be fairly representative of all disability~~
 4758 ~~groups. The term of each member of the Governor's council shall be for three years,~~
 4759 ~~provided that of the members first appointed, ten shall be appointed for a term of one year,~~
 4760 ~~five for a term of two years, and the remainder, if any, for a term of three years. Vacancies~~
 4761 ~~shall be filled by similar appointment for unexpired terms. The director shall be an ex~~
 4762 ~~officio, nonvoting member. There is created the Behavioral Health Coordinating Council.~~
 4763 The council shall consist of the commissioner of behavioral health and developmental
 4764 disabilities; the commissioner of community health; the commissioner of human services;
 4765 the commissioner of juvenile justice; the commissioner of corrections; an adult consumer
 4766 of public behavioral health services, appointed by the Governor; a family member of a
 4767 consumer of public behavioral health services, appointed by the Governor; a parent of a
 4768 child receiving public behavioral health services, appointed by the Governor; a member of
 4769 the House of Representatives, appointed by the Speaker of the House of Representatives;
 4770 and a member of the Senate, appointed by the Lieutenant Governor.

4771 (b) ~~The Governor's council shall advise the Governor, the board, the department, and the~~
 4772 ~~division as to the efficacy of the state disability services programs, the need for legislation~~
 4773 ~~relating to the disabled, the need for expansion or reduction of specific disability services~~
 4774 ~~programs, and the need for specific changes in the state disability services programs. The~~
 4775 ~~Governor's council shall review and prepare written comments on proposed state plans and~~
 4776 ~~on standards, rules, and regulations promulgated by the division. Such comments shall be~~
 4777 ~~submitted to the director, the board, the commissioner, and to any other individual or~~
 4778 ~~agency deemed appropriate. The Governor's council shall further receive and consider~~
 4779 ~~complaints and grievances submitted in writing by individuals, associations, or agencies~~
 4780 ~~involved with the delivery or receipt of disability services and, if deemed appropriate, shall~~
 4781 ~~make recommendations to the Governor, the board, the department, or the division with~~
 4782 ~~respect to such complaints or grievances. The Governor's council shall also provide~~
 4783 ~~guidance and assistance to the regional planning boards, hospitals, community service~~
 4784 ~~boards, and other private or public providers in the performance of their duties.~~

4785 (b) The commissioner of behavioral health and developmental disabilities shall be the
 4786 chairperson of the council. A vice chairperson and a secretary shall be selected by the
 4787 members of the council as prescribed in the council's bylaws.

4788 (c) Meetings of the council shall be held quarterly, or more frequently, on the call of the
4789 chairperson. Meetings of the council shall be held with no less than five days' public notice
4790 for regular meetings and with such notice as the bylaws may prescribe for special meetings.
4791 Each member shall be given written notice of all meetings. All meetings of the council
4792 shall be subject to the provisions of Chapter 14 of Title 50. Minutes or transcripts shall be
4793 kept of all meetings of the council and shall include a record of the votes of each member,
4794 specifying the yea or nay vote or absence of each member, on all questions and matters
4795 coming before the council. No member may abstain from a vote other than for reasons
4796 constituting disqualification to the satisfaction of a majority of a quorum of the council on
4797 a recorded vote. No member of the council shall be represented by a delegate or agent.
4798 (d) Except as otherwise provided in this Code section, a majority of the members of the
4799 council then in office shall constitute a quorum for the transaction of business. No vacancy
4800 on the council shall impair the right of the quorum to exercise the powers and perform the
4801 duties of the council. The vote of a majority of the members of the council present at the
4802 time of the vote, if a quorum is present at such time, shall be the act of the council unless
4803 the vote of a greater number is required by law or by the bylaws of the council.
4804 (e) The council shall:
4805 (1) Develop solutions to the systemic barriers or problems to the delivery of behavioral
4806 health services by making recommendations that implement funding, policy changes,
4807 practice changes, and evaluation of specific goals designed to improve services delivery
4808 and outcome for individuals served by the various departments;
4809 (2) Focus on specific goals designed to resolve issues for provision of behavioral health
4810 services that negatively impact individuals serviced by at least two departments;
4811 (3) Monitor and evaluate the implementation of established goals; and
4812 (4) Establish common outcome measures.
4813 (f)(1) The council may consult with various entities, including state agencies, councils,
4814 and advisory committees and other advisory groups as deemed appropriate by the
4815 council.
4816 (2) All state departments, agencies, boards, bureaus, commissions, and authorities are
4817 authorized and required to make available to the council access to records or data which
4818 are available in electronic format or, if electronic format is unavailable, in whatever
4819 format is available. The judicial and legislative branches are authorized to likewise
4820 provide such access to the council.
4821 (g) The council shall be attached to the Department of Behavioral Health and
4822 Developmental Disabilities for administrative purposes only as provided by Code Section
4823 50-4-3.

4824 (h)(1) The council shall submit annual reports of its recommendations and evaluation of
4825 their implementation to the Governor and the General Assembly.

4826 (2) The recommendations developed by the council shall be presented to the board of
4827 each member department for approval or review at least annually.

4828 (i) For purposes of this Code section, the term 'behavioral health services' has the same
4829 meaning as 'disability services' as defined in Code Section 37-1-1.

4830 37-2-4.1.

4831 (a) The ~~division~~ department shall create regional mental health, developmental disabilities,
4832 and addictive diseases offices. The number of these offices may be modified from time to
4833 time as deemed necessary by the ~~division~~ department.

4834 (b) The ~~division~~ department shall create a separate regional mental health, developmental
4835 disabilities, and addictive diseases planning board for each regional office established
4836 under subsection (a) of this Code section. Each board shall provide and facilitate
4837 coordinated and comprehensive planning for its region in conformity with minimum
4838 standards and procedures established by the ~~division~~ department. Each board shall be
4839 designated with such identifying words before the term 'regional mental health,
4840 developmental disabilities, and addictive diseases planning board' as that regional planning
4841 board may, from time to time, choose and designate by official action.

4842 (c) The powers, functions, obligations, and duties of the regional mental health, mental
4843 retardation, and substance abuse boards as they existed on June 30, 2002, are transferred
4844 to the department. The department shall succeed to all rights, privileges, entitlements,
4845 contracts, leases, agreements, and other transactions of the regional boards which were in
4846 effect on June 30, 2002, and none of those rights, privileges, entitlements, contracts, leases,
4847 agreements, and other transactions shall be impaired or diminished by reason of such
4848 transfer. In all such instances, the department shall be substituted for such regional board
4849 and the department shall succeed to the rights and duties under such contracts, leases,
4850 agreements, and other transactions.

4851 37-2-5.

4852 (a) Each regional planning board shall engage in disability services planning including job
4853 supports and housing within its region and shall perform such other functions as may be
4854 provided or authorized by law.

4855 (b) Membership on the regional planning board within an established region shall be
4856 determined as follows:

- 4857 (1) Each county with a population of 50,000 or less according to the United States
 4858 decennial census of 1990 or any future such census shall appoint one member to the
 4859 board;
- 4860 (2) Each county with a population of more than 50,000 according to the United States
 4861 decennial census of 1990 or any future such census shall appoint one member for each
 4862 population increment of 50,000 or any portion thereof;
- 4863 (3) The appointment or appointments for each county shall be made by the county
 4864 governing authority; and
- 4865 (4) The county governing authority shall appoint a consumer of disability services, a
 4866 family member of a consumer, an advocate for disability services, or a local leader or
 4867 business person with an interest in mental health, developmental disabilities, and
 4868 addictive diseases; provided, however, that for counties with more than one appointment,
 4869 the county governing authority shall seek to ensure that such appointments represent
 4870 various groups and disability services.
- 4871 (b.1) A county governing authority may appoint the school superintendent, a member of
 4872 the county board of health, a member of the local board of education, or any other elected
 4873 or appointed official to serve on the regional planning board, provided that such person
 4874 meets the qualifications of paragraph (4) of subsection (b) of this Code section, such person
 4875 does not serve on a community service board, and such appointment does not violate the
 4876 provisions of Chapter 10 of Title 45.
- 4877 (b.2)(1) A person shall not be eligible to be appointed to or serve on a regional planning
 4878 board if such person is:
- 4879 (A) A member of the community service board which serves that region; or
- 4880 (B) An employee or board member of a private or public entity which contracts with
 4881 the department, ~~through the division,~~ the Department of Human Services, or the
 4882 Department of Community Health to provide health, mental health, developmental
 4883 disabilities, or addictive diseases services within the region; ~~or~~
- 4884 (C) An employee of such regional office or employee or board member of any private
 4885 or public group, organization, or service provider which contracts with or receives
 4886 funds from such regional office; or
- 4887 (D) An employee or board member of the department, the Department of Human
 4888 Services, or the Department of Community Health.
- 4889 (2) A person shall not be eligible to be appointed to or serve on a regional planning board
 4890 if such person's spouse, parent, child, or sibling is a member of that regional planning
 4891 board or a member, employee, or board member specified in ~~subparagraph (A), (B), or~~
 4892 ~~(C)~~ of paragraph (1) of this subsection. No person who has served a full term or more
 4893 on a regional board or regional planning board may be appointed to a community service

board until a period of at least two years has passed since the time such person served on the regional board or the regional planning board. No person who has served on a regional board and who becomes a member of a regional planning board on June 30, 2002, may be appointed to a community service board until a period of at least two years has passed since the time such person has served on the regional planning board.

(c) In making appointments to the regional planning board, the various county governing authorities shall ensure that appointments are reflective of the cultural and social characteristics, including gender, race, ethnic, and age characteristics, of the regional and county populations. The county governing authorities are further encouraged to ensure that each disability group is viably represented on the regional planning board, and in so doing the county governing authority may consider suggestions for appointments from clinical professional associations as well as advocacy groups, including but not limited to the Georgia Mental Health Consumer Network, People First of Georgia, the Georgia Parent Support Network, National Alliance for the Mentally Ill Georgia, the American Association for Retired Persons, Georgians for Children, ~~the National Mental Health Association~~ America of Georgia, Georgia ARC Network, and the Georgia Council on Substance Abuse and their local chapters and affiliates.

(d)(1) In addition, members of the regional mental health, mental retardation, and substance abuse boards in office on June 30, 2002, shall become members of the regional planning board for the area in which they reside on July 1, 2002, and shall serve out the balance of their terms.

(2) The initial term of a new member of a regional planning board shall be determined by the commissioner in order to establish staggered terms on the board. At such time as the terms of the members of the board are equally staggered, the term of a member of the regional planning board shall be for a period of three years and until the member's successor is appointed and qualified. A member may serve no more than two consecutive terms. The term of a regional planning board member shall terminate upon resignation, death, or inability to serve due to medical infirmity or other incapacity or such other reasonable condition as the regional planning board may impose under its bylaws. Vacancies on the regional planning board shall be filled in the same manner as the original appointment.

(e) Prior to August 1, 2002, each regional planning board shall adopt bylaws governing its operation and management. At a minimum, the bylaws shall provide for staggered terms of the board, requirements for an annual meeting to elect officers, a mechanism for ensuring that consumers of disability services and family members of consumers constitute a majority of the appointments to the board, and a mechanism for ensuring that each disability service is equitably represented by appointments to the board. Any board

member who serves an initial term of less than three years may be eligible to be reappointed for two full consecutive three-year terms. The chairperson and vice chairperson of the regional planning board shall be elected from among the members of the board to serve a term of one year with the option of reelection for an additional one-year term. The bylaws shall provide for any other officers and their means of selection, as well as any necessary committees or subcommittees of the board. Prior to their adoption by the regional planning board, the bylaws shall be submitted to the ~~division~~ department for review and approval. The regional planning board must have the written approval of the ~~director of the division~~ commissioner prior to the adoption of bylaws.

(f) The regional planning board shall meet not less than once every two months, beginning on July 1 and continuing through the next June 30, which time frame shall be the fiscal year for each regional planning board.

(g) Each member of the regional planning board may, upon approval of the regional coordinator, receive reimbursement for actual expenses incurred in carrying out the duties of such office in conformance with rates and allowances set for state employees by the Office of Planning and Budget and the same mileage allowance for use of a personal car as that received by all other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier.

(h) Each regional planning board which is composed of members who are appointed thereto by the governing authority of only one county shall have a minimum of six members, notwithstanding the provisions of subsection (b) of this Code section, which members shall in all other respects be appointed as provided in this Code section.

37-2-5.1.

(a) Each region shall be served by a regional coordinator, who shall be duly qualified and appointed by the ~~director of the division~~ commissioner. The regional coordinator shall serve as the supervisor of the regional office, which shall be a unit of the ~~division~~ department. The regional coordinator shall serve at the pleasure of the ~~division director~~ commissioner. The ~~director of the division~~ commissioner shall be authorized to appoint an interim regional coordinator at any time that the position of regional coordinator is vacant and prior to the appointment of a duly qualified and approved successor.

(b) The regional coordinator may appoint such other staff including a regional services administrator ~~and a regional state hospital administrator~~ and personnel to work for the regional office as the ~~division~~ department deems necessary and appropriate. The regional coordinator and such staff and personnel shall be employees of the ~~division~~ department. Expenses for the regional office and planning board, the employment of the regional coordinator, other staff and personnel, and the operation of the regional office shall be

4967 funded by the ~~division~~ department as funds are appropriated by the General Assembly. The
4968 department ~~and the division~~ shall impose limits on the administrative and operating
4969 expenditures of the regional office and planning board.

4970 (c)(1) State, federal, and other funds appropriated to the department, ~~the division, or~~
4971 ~~both~~, and available for the purpose of funding the planning and delivery of disability
4972 services shall be distributed in accordance with this subsection. All funds associated with
4973 services to clients residing within a given region shall be managed through the ~~division~~
4974 department; the term 'all funds' shall include funding for hospitals, community service
4975 boards, private and public contracts, and any contracts relating to service delivery for
4976 clients within the given region. The ~~division~~ department shall establish a funding amount
4977 for regions conditioned upon the amount of funds appropriated. The funding amount
4978 shall be determined, in part, based on consumer service needs, service and program
4979 history, population based funding needs, infrastructure mandates, program efficiency and
4980 effectiveness, geographic distances, and other factors affecting the cost and level of
4981 service needs within each region.

4982 (2) The ~~division~~ department shall establish guidelines to ensure that regions receive such
4983 funding based on client population, past and future service delivery needs and
4984 capabilities, and in consideration of special needs populations, such as homeless and
4985 transient populations. The ~~division~~ department shall ensure that funds are managed based
4986 primarily on services to clients and in compliance with all federal, state, and regulatory
4987 requirements.

4988 (3) The ~~division~~ department, in compliance with the provisions of the General
4989 Appropriations Act and other applicable laws, is authorized to move funds to and
4990 between community and institutional programs based on need, and the ~~division~~
4991 department shall develop appropriate allocation and accounting mechanisms to move
4992 funds in a planned and rational manner between hospitals, community service boards, and
4993 other providers based on client needs and utilization.

4994 37-2-5.2.

4995 (a) Under the supervision of the ~~division~~ department, each regional office shall have the
4996 following duties and functions:

4997 (1) To prepare, in consultation with consumers and families, community programs,
4998 hospitals, other public and private providers, its regional planning board, and appropriate
4999 advisory and advocacy groups, an annual plan for the funding and provision of all
5000 disability services in the region. The plan shall be submitted to the ~~division~~ department
5001 at a time and in the manner specified by the ~~division~~ department so as to ensure that the
5002 plan is a basis for the annual appropriations request;

- 5003 (2) To provide, as funds become available, for consumer assessment and service
5004 authorization and coordination for each consumer receiving services within the region;
- 5005 (3) To exercise responsibility and authority as specified in this chapter within the region
5006 in all matters relating to the funding and delivery of disability services;
- 5007 (4) To receive and administer grants, gifts, moneys, and donations for purposes
5008 pertaining to mental health, developmental disability, and addictive disease services;
- 5009 (5) To enter into contracts on behalf of the ~~division~~ department with any hospital,
5010 community service board, or other public or private providers without regard to regional
5011 or state boundaries for the provision of disability services, and to enter into all contracts
5012 on behalf of the ~~division~~ department necessary or incidental to the performance of duties
5013 and functions of the ~~division~~ department and regional office;
- 5014 (6) To encourage the development, in cooperation with the ~~division~~ department, of
5015 private and public providers of programs and disability services which respond to the
5016 needs of consumers and families of consumers within the region;
- 5017 (7) To serve as the representative of the citizens of the area in regard to disability
5018 services;
- 5019 (8) To receive and consider complaints and grievances submitted by individuals,
5020 associations, or agencies involved with the delivery or receipt of disability services and,
5021 if deemed appropriate, to seek resolution, through processes which may include impartial
5022 mediation and alternate dispute resolution, of such complaints and grievances with the
5023 appropriate hospital, community service board, or other private or public provider of
5024 service;
- 5025 (9) To assure the highest achievable level of public awareness and understanding of both
5026 available and needed disability services;
- 5027 (10) To visit regularly disability services facilities and programs which serve the region
5028 in order to assure contracted providers are licensed and accredited by the designated
5029 agencies prescribed by the ~~division~~ department, and in order to evaluate the effectiveness
5030 and appropriateness of the services, as such services relate to the health, safety, and
5031 welfare of service recipients, and to provide technical assistance to programs in
5032 delivering services; and
- 5033 (11) To participate with other regional offices and planning boards, ~~the division~~, the
5034 department, local, state, or federal government agencies, educational institutions, and
5035 public and private organizations in the coordination of planning, research, service
5036 development, and evaluation activities:
- 5037 (A) To work cooperatively with all units of county and local government, including the
5038 county boards of health, within the region;

5039 (B) To establish goals and objectives, not inconsistent with those established by ~~the~~
5040 ~~division~~ and the department, for its region; and

5041 (C) To participate in the establishment and operation of a data base and network,
5042 coordinated by the ~~division~~ department, to serve as a comprehensive management
5043 information system for disability services and programs.

5044 (b) It is the express intent of this chapter to confer upon the regional offices as the
5045 administrative entities of the ~~division~~ department the flexibility, responsibility, and
5046 authority necessary to enter into contracts on behalf of the ~~division~~ department with a wide
5047 range of public and private providers to ensure that consumers are afforded cost-effective,
5048 locally based, and quality disability services. Under the supervision of the ~~division~~
5049 department, regional offices are specifically authorized to enter into contracts on behalf of
5050 the ~~division~~ department directly with any county governing authority, any disability
5051 services organization created or designated by such county governing authority, any county
5052 board of health, any private or public provider, or any hospital for the provision of
5053 disability services.

5054 (c) Each regional office shall account for all funds received, expended, and administered
5055 and shall make reports to the ~~division~~ department regarding the funds received from the
5056 department. The audit of such activity shall be part of the annual audit of the department.

5057 37-2-6.

5058 (a) Community service boards in existence on June 30, 2006, are re-created effective July
5059 1, 2006, to provide mental health, developmental disabilities, and addictive diseases
5060 services. ~~Such~~ Effective July 1, 2009, such community service boards may enroll and
5061 contract with the department, the Department of Human Services, or the Department of
5062 Community Health to become a provider of mental health, developmental disabilities, and
5063 addictive diseases services or health, recovery, housing, or other supportive services. Such
5064 boards shall be considered public agencies. Each community service board shall be a
5065 public corporation and an instrumentality of the state; provided, however, the liabilities,
5066 debts, and obligations of a community service board shall not constitute liabilities, debts,
5067 or obligations of the state or any county or municipal corporation and neither the state nor
5068 any county or municipal corporation shall be liable for any liability, debt, or obligation of
5069 a community service board. Each community service board re-created pursuant to this
5070 Code section is created for nonprofit and public purposes to exercise essential
5071 governmental functions. The re-creation of community service boards pursuant to this
5072 Code section shall not alter the provisions of Code Section 37-2-6.2 which shall apply to
5073 those re-created community service boards and their employees covered by that Code
5074 section and those employees' rights are retained.

(b) Each community service board shall consist of members appointed by the governing authorities of the counties within the community service board area. Membership on such community service board shall be determined as follows:

(1)(A) The governing authority of each county within the community service board area:

(i) With a population of 50,000 or less according to the most recent United States decennial census shall appoint one member to the board; and

(ii) With a population of more than 50,000 according to the most recent United States decennial census shall appoint one member for each population increment of 50,000 or any portion thereof; or

(B) In the event that the number of community service board member positions established in accordance with subparagraph (A) of this paragraph would exceed 13, the membership of such community service board pursuant to this subsection shall be appointed as follows and the bylaws shall be amended accordingly:

(i) For community service boards whose community service board area contains 13 or fewer counties, the board shall be set at 13 members and appointments to the board shall be made by the governing authority of each county within the community service board area in descending order from the county with the largest population to the county with the smallest population according to the most recent United States decennial census and this method shall be repeated until all 13 members of the community service board are appointed. If a county governing authority fails to make an appointment within a reasonable time, the next descending county by population shall make an appointment and the method shall continue; and

(ii) For community service boards whose community service board area contains more than 13 counties, one member of the community service board shall be appointed by the governing authority of each county within the community service board area, so that the number of members on the board is equal to the number of counties in the community service board area.

The county governing authority shall appoint as at least one of its appointments a consumer of disability services, a child psychiatrist, a child psychologist, a family member of a consumer, an advocate for disability services, a parent of a child with mental illness or addictive disease, or a local leader or businessperson with an interest in mental health, developmental disabilities, and addictive diseases; provided, however, that for counties with more than one appointment, the county governing authority shall seek to ensure that such appointments represent various groups and disability services;

(2) In addition to the members appointed pursuant to paragraph (1) of this subsection, each community service board may appoint up to three additional members in order to

address variation in the population sizes of counties or the financial contributions of counties within the community service board area or may authorize the elected chief executive officer of a county governing authority, by whatever name called, or an elected member of that county governing authority to serve on the community service board while holding such elective office. The bylaws of the community service board shall address the number of such additional members, if any, and the purpose or purposes for which such positions are created. The term of office of such additional members shall be the same as that of other members as provided in subsection (h) of this Code section; except that the term of office of a member in a position created to authorize the elected chief executive officer of a county governing authority, by whatever name called, or an elected member of that county governing authority to serve on the community service board shall be the same term of office as the elective term of office of said chief executive officer or said member of that county governing authority;

(3) Each community service board in existence on June 30, 2006, shall reconstitute its membership in accordance with the provisions of paragraphs (1) and (2) of this subsection, effective July 1, 2006, as follows:

(A) A community service board which increases or reduces the number of its members in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws adopted in accordance with subsection (h) of this Code section to reflect such increases or reductions. A community service board which reduces the number of its members shall designate which position or positions are to be eliminated and shall make reasonable efforts to eliminate any position or positions of members whose terms expire on or before June 30, 2006; provided, however, that members serving on a community service board whose terms do not expire on or before June 30, 2006, shall continue to serve out the terms of office to which they were appointed, regardless of whether this causes a board to temporarily exceed the maximum number of members. Any additional positions created in conformity with such paragraphs (1) and (2) may be filled on July 1, 2006, and the governing authority of a county that is otherwise authorized to appoint such additional community service board member or members may do so no sooner than May 1, 2006, but any person so appointed shall not take office until July 1, 2006. If a position on such community service board is not filled on July 1, 2006, a vacancy in that position shall be deemed to have occurred on that date. A community service board is authorized to make whatever changes necessary in the terms of office of its members in order to achieve the staggering of terms required by subsection (h) of this Code section; and

(B) The term of office of an ex officio, voting member of a community service board holding membership on June 30, 2006, shall expire on June 30, 2006; and

(4)(A) A person shall not be eligible to be appointed to or serve on a community service board if such person is:

(i) A member of the regional planning board which serves the region in which that community service board is located;

(ii) An employee or board member of a public or private entity which contracts with the ~~division~~ department, the Department of Human Services, or the Department of Community Health to provide mental health, developmental disabilities, and addictive diseases services or health services within the region; or

(iii) An employee of that community service board or employee or board member of any private or public group, organization, or service provider which contracts with or receives funds from that community service board.

(B) A person shall not be eligible to be appointed to or serve on a community service board if such person's spouse, parent, child, or sibling is a member of that community service board or a member, employee, or board member specified in ~~division (i), (ii), or (iii) of subparagraph (A)~~ of this paragraph. With respect to appointments by the same county governing authority, no person who has served a full term or more on a community service board may be appointed to a regional planning board until a period of at least two years has passed since the time such person served on the community service board, and no person who has served a full term or more on a regional planning board may be appointed to a community service board until a period of at least two years has passed since the time such person has served on the regional planning board.

(5) A community service board created in accordance with this subsection shall reconstitute its membership in conformity with the most recent United States decennial census in accordance with subparagraph (d)(2)(C) of Code Section 1-3-1.

(b.1) A county governing authority may appoint the school superintendent, a member of the county board of health, a member of the board of education, or any other elected or appointed official to serve on the community service board provided that such person meets the qualifications of paragraph (1) of subsection (b) of this Code section and such appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office which begin July 1, 1994, or later, an employee of the Department of Human Resources (now known as the Department of Behavioral Health and Developmental Disabilities for these purposes) or an employee of a county board of health ~~may~~ shall not serve on a community service board. For terms of office which begin July 1, 2009, or later, an employee of the department, the Department of Human Services, or the Department of Community Health or a board member of the respective boards of each department shall not serve on a community service board.

(c) In making appointments to the community service board, the county governing authorities shall ensure that such appointments are reflective of the cultural and social characteristics, including gender, race, ethnic, and age characteristics, of the community service board area and county populations. The county governing authorities are further encouraged to ensure that each disability group is represented on the community service board, and in making such appointments the county governing authorities may consider suggestions from clinical professional associations as well as advocacy groups. For the purposes of this subsection, 'advocacy groups' means any organizations or associations that advocate for, promote, or have an interest in disability services and are exempted as a charitable organization from federal income tax pursuant to Section 501(c) of the Internal Revenue Code; provided, however, that 'advocacy groups' shall not mean paid providers of disability services or health services.

(c.1) A county governing authority in making appointments to the community service board shall take into consideration that at least one member of the community service board is an individual who is trained or certified in finance or accounting; provided, however, if after a reasonable effort at recruitment there is no person trained or certified in finance or accounting within the community service board area who is willing and able to serve, the county governing authority may consider for appointment any other person having a familiarity with financial or accounting practices.

(d) Each county in which the governing authority of the county is authorized to appoint members to the community service board shall participate with the board in the operation of the program through the community service board. All contractual obligations, including but not limited to real estate leases, rentals, and other property agreements, other duties, rights, and benefits of the mental health, developmental disabilities, and addictive diseases service areas in existence on June 30, 2006, shall continue to exist along with the new powers granted to the community service boards effective July 1, 2006.

(e) Notwithstanding any other provision of this chapter, a community service board may be constituted in a method other than that outlined in subsection (b) of this Code section if:

(1) A board of health of a county desiring to be the lead county board of health for that county submits a written agreement to the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health and Developmental Disabilities) of the former Department of Human Resources before July 1, 1993, to serve as the community service board and to continue providing disability services in that county after July 1, 1994, and the governing authority for that county ~~adopts~~ adopted a resolution stating its desire to continue the provision of

disability services through its board of health after July 1, 1994, and ~~submits~~ submitted a copy of such resolution to the former division before July 1, 1993; or

(2)(A) The lead county board of health for a community mental health, mental retardation, and substance abuse service area, as designated by the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health and Developmental Disabilities) of the former Department of Human Resources on July 15, 1993, but which area excludes any county which meets the requirements of paragraph (1) of this subsection, ~~submits~~ submitted a written agreement to the former division and to all counties within such service area to serve as the community service board for that area and to continue providing disability services after July 1, 1994, which agreement ~~shall be~~ was submitted between July 31, 1993, and December 31, 1993; and

(B) Each county governing authority which is within the service area of a lead county board of health which has submitted an agreement pursuant to subparagraph (A) of this paragraph ~~adopts~~ adopted a resolution stating its desire to continue the provision of disability services through such lead county board of health after July 1, 1994, and ~~submits~~ submitted a copy of that resolution to the former division, the regional board, and the lead county board of health between July 31, 1993, and December 31, 1993; and

(3) The lead county board of health qualifying as such under paragraph (1) or (2) of this subsection agrees in writing to appoint a director for mental health, mental retardation, and substance abuse other than the director of the county board of health as stipulated in Code Section 31-3-12.1, to appoint an advisory council on mental health, mental retardation, and substance abuse consisting of consumers, families of consumers, and representatives from each of the counties within the boundaries of the community service board, and to comply with all other provisions relating to the delivery of disability services pursuant to this chapter.

(f) If the conditions enumerated in subsection (e) of this Code section are not met prior to or on December 31, 1993, a community service board as provided in subsection (b) shall be established and appointed by January 31, 1994, to govern the provision of disability services within the boundaries of the community service board. Such community service board shall have the authority to adopt bylaws and undertake organizational and contractual activities after January 31, 1994; provided, however, that the community service board established pursuant to this Code section may not begin providing services to clients until July 1, 1994.

(g) If a community service board is established pursuant to paragraph (2) of subsection (e) of this Code section, such community service board must operate as established at least

5258 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,
5259 the counties included under the jurisdiction of such a community service board may vote
5260 to reconstitute the community service board pursuant to the provisions of subsection (b)
5261 of this Code section by passage of a resolution by a majority of the county governing
5262 authorities within the jurisdiction of the community service board prior to January 1, 1997,
5263 or each year thereafter.

5264 (h) Each community service board shall adopt bylaws and operational policies and
5265 guidelines in conformity with the provisions of this chapter. Those bylaws shall address
5266 board appointment procedures, initial terms of board members, the staggering of terms,
5267 quorum, a mechanism for ensuring that consumers of disability services and family
5268 members of consumers constitute no less than 50 percent of the board members appointed
5269 pursuant to subsection (b) of this Code section, and a mechanism for ensuring equitable
5270 representation of the various disability groups. A quorum for the transaction of any
5271 business and for the exercise of any power or function of the community service board
5272 shall consist of a majority of the total number of filled board member positions appointed
5273 pursuant to subsection (b) of this Code section. A vote of the majority of such quorum
5274 shall be the act of the governing board of the community service board except where the
5275 bylaws of the community service board may require a greater vote. The regular term of
5276 office for each community service board member shall be three years. Vacancies on such
5277 board shall be filled in the same manner as the original appointment. For the purposes of
5278 this subsection, 'equitable representation of the various disability groups' shall mean that
5279 consumers and family members of such consumers who constitute no less than 50 percent
5280 of the board members holding membership pursuant to subsection (b) of this Code section
5281 shall be appointed so as to assure that an equal number of such members to the fullest
5282 extent possible represents mental health, developmental disabilities, and addictive diseases
5283 interests.

5284 (i) Each community service board which is composed of members who are appointed
5285 thereto by the governing authority of only one county shall have a minimum of six and no
5286 more than 13 members, not including any additional members appointed pursuant to
5287 paragraph (2) of subsection (b) of this Code section, notwithstanding the provisions of
5288 subsection (b) of this Code section, which members in all other respects shall be appointed
5289 as provided in this Code section.

5290 (j) No officer or employee of a community service board who has authority to take, direct
5291 others to take, recommend, or approve any personnel action shall take or threaten action
5292 against any employee of a community service board as a reprisal for making a complaint
5293 or disclosing information concerning the possible existence of any activity constituting
5294 fraud, waste, or abuse in or relating to the programs, operations, or client services of the

5295 board to the board or to a member of the General Assembly unless the complaint was made
5296 or the information was disclosed with the knowledge that it was false or with willful
5297 disregard for its truth or falsity. Any action taken in violation of this subsection shall give
5298 the public employee a right to have such action set aside in a proceeding instituted in the
5299 superior court.

5300 (k) A member of a community service board who after notice that such member has failed
5301 to complete any required training prescribed by the department pursuant to paragraph (6)
5302 ~~(4) of subsection (b)~~ of Code Section 37-1-20 continues such failure for 30 days may be
5303 removed from office by the remaining members of the community service board.

5304 (l) A member of a community service board may resign from office by giving written
5305 notice to the executive director of the community service board. The resignation is
5306 irrevocable after delivery to such executive director but shall become effective upon the
5307 date on which the notice is received or on the effective date given by the member in the
5308 notice, whichever date is later. The executive director, upon receipt of the resignation,
5309 shall give notice of the resignation to the remaining members of the community service
5310 board and to the chief executive officer or governing authority of the county that appointed
5311 the member.

5312 (m) The office of a member of a community service board shall be vacated upon such
5313 member's resignation, death, or inability to serve due to medical infirmity or other
5314 incapacity, removal by the community service board as authorized in this Code section or
5315 upon such other reasonable condition as the community service board may impose under
5316 its bylaws.

5317 (n) A member of a community service board may not enter upon the duties of office until
5318 such member takes the following oath of office:

5319 STATE OF GEORGIA

5320 COUNTY OF _____

5321 I, _____, do solemnly swear or affirm that I will truly perform the
5322 duties of a member of the _____ Community Service Board to the
5323 best of my ability.

5324 I do further swear or affirm:

5325 (1) That I am not the holder of any unaccounted for public money due this state or any
5326 political subdivision or authority thereof;

5327 (2) That I am not the holder of any office of trust under the government of the United
5328 States, any other state, or any foreign state which I am by the laws of the State of Georgia
5329 prohibited from holding;

5330 (3) That I am otherwise qualified to hold said office according to the Constitution and
5331 the laws of Georgia; and

5332 (4) That I will support the Constitution of the United States and this state.

5333 _____
 5334 Signature of member of
 5335 _____ Community Service Board

5336 _____
 5337 Typed name of member of
 5338 _____ Community Service Board

5339 Sworn and subscribed
 5340 before me this _____ day
 5341 of _____, _____.
 5342 (SEAL)

5343 37-2-6.1.

5344 (a) Each community service board shall employ an executive director to serve as its chief
 5345 executive officer who shall direct the day-to-day operations of the community service
 5346 board. Such executive director shall be appointed and removed by the community service
 5347 board and shall appoint other necessary staff pursuant to an annual budget adopted by the
 5348 board, which budget shall provide for securing appropriate facilities, sites, and
 5349 professionals necessary for the provision of disability and health services. The community
 5350 service board may delegate any power, authority, duty, or function to its executive director
 5351 or other staff. The executive director or other staff is authorized to exercise any power,
 5352 authority, duty, or function on behalf of the community service board.

5353 (b) Each community service board, under the jurisdiction of its board, shall perform duties,
 5354 responsibilities, and functions and may exercise power and authority described in this
 5355 subsection. Each program may exercise the following power and authority:

5356 (1) Each community service board may adopt bylaws for the conduct of its affairs;
 5357 provided, however, that the community service board shall meet at least quarterly, and
 5358 that all such meetings and any bylaws shall be open to the public, as otherwise required
 5359 under Georgia law;

5360 (2) Each community service board may make and enter into all contracts necessary and
 5361 incidental to the performance of its duties and functions;

5362 (3) Each community service board may acquire by purchase, gift, lease, or otherwise and
 5363 may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and
 5364 dispose of real and personal property of every kind and character, or any interest therein,
 5365 for its corporate purposes;

5366 (4) Each community service board may contract to utilize the services of the Department
5367 of Administrative Services, the State Merit System of Personnel Administration, the state
5368 auditor, or any other agency of state, local, or federal government;

5369 (5) Each community service board may provide, either independently or through contract
5370 with appropriate state or local governmental entities, the following benefits to its
5371 employees, their dependents, and survivors, in addition to any compensation or other
5372 benefits provided to such persons:

5373 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the
5374 purchase of insurance or otherwise, but medical and hospitalization benefits may only
5375 be provided through the Department of Community Health under the same conditions
5376 as provided for such benefits to state employees, and the Department of Community
5377 Health shall so provide if requested;

5378 (B) Life insurance coverage and coverage under federal old age and survivors'
5379 insurance programs;

5380 (C) Sick leave, annual leave, and holiday leave; and

5381 (D) Any other similar benefits including, but not limited to, death benefits;

5382 (6) Each community service board may cooperate with all units of local government in
5383 the counties where the community service board provides services as well as neighboring
5384 regions and with the programs of other departments, agencies, and regional commissions
5385 and regional planning boards;

5386 (7) Each community service board shall establish and maintain a personnel program for
5387 its employees and fix the compensation and terms of compensation of its employees;
5388 provided, however, each community service board shall comply with the provisions of
5389 Chapter 20 of Title 45, relating to state personnel administration, for ~~as~~ so long as and to
5390 the extent that each employee of such board who is a covered employee as defined in
5391 Code Section 45-20-2 and is subject to the rules and regulations of the State Merit System
5392 of Personnel Administration remains in a covered position or as otherwise provided by
5393 law;

5394 (8) Each community service board may receive and administer grants, gifts, contracts,
5395 moneys, and donations for purposes pertaining to the delivery of disability services or of
5396 health services;

5397 (9) Each community service board may establish fees for the provision of disability
5398 services or health services according to the terms of contracts entered into with the
5399 department, Department of Human ~~Resources~~ Services, and the or Department of
5400 Community Health, as appropriate;

5401 (10) Each community service board may accept appropriations, loans of funds, facilities,
5402 equipment, and supplies from local governmental entities in the counties where the
5403 community service board provides services;

5404 (11) Each member of the community service board may, upon approval of the executive
5405 director, receive reimbursement for actual expenses incurred in carrying out the duties
5406 of such office; provided, however, such reimbursement shall not exceed the rates and
5407 allowances set for state employees by the Office of Planning and Budget or the mileage
5408 allowance for use of a personal car as that received by all other state officials and
5409 employees or a travel allowance of actual transportation cost if traveling by public
5410 carrier;

5411 (12) Each community service board shall elect a chairperson and vice chairperson from
5412 among its membership. The members shall also elect a secretary and treasurer from
5413 among its membership or may designate the executive director of the community service
5414 board to serve in one or both offices. Such officers shall serve for such terms as shall be
5415 prescribed in the bylaws of the community service board or until their respective
5416 successors are elected and qualified. No member shall hold more than one office of the
5417 community service board; except that the same person may serve as secretary and
5418 treasurer. The bylaws of the community service board shall provide for any other officers
5419 of such board and the means of their selection, the terms of office of the officers, and an
5420 annual meeting to elect officers;

5421 (13) Each community service board may have a seal and alter it;

5422 (14) Each community service board may contract with the State Merit System of
5423 Personnel Administration regarding its personnel who remain in the classified service;

5424 (15) Each community service board may establish fees, rates, rents, and charges for the
5425 use of facilities of the community service board for the provision of disability services
5426 or of health services through the Department of Community Health, in accordance with
5427 the terms of contracts entered into with the department, Department of Human Services,
5428 or Department of Community Health, as appropriate;

5429 (16) Each community service board may borrow money for any business purpose and
5430 may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or
5431 obligation incurred by a community service board shall not be considered a debt, liability,
5432 or obligation of the state or any county or any municipality or any political subdivision
5433 of the state. A community service board may not borrow money as permitted by this
5434 Code section if the highest aggregate annual debt service requirements of the then current
5435 fiscal year or any subsequent year for outstanding borrowings of the community service
5436 board, including the proposed borrowing, exceed 15 percent of the total revenues of the
5437 community service board in its fiscal year immediately preceding the fiscal year in which

5438 such debt is to be incurred. Interest paid upon such borrowings shall be exempt from
5439 taxation by the state or its political subdivisions. A state contract with a community
5440 service board shall not be used or accepted as security or collateral for a debt, liability,
5441 or obligation of a community service board without the prior written approval of the
5442 commissioner;

5443 (17) Each community service board, to the extent authorized by law and the contract for
5444 the funds involved, may carry forward without lapse fund balances and establish
5445 operating, capital, and debt reserve accounts from revenues and grants derived from state,
5446 county, and all other sources; and

5447 (18) Each community service board may operate, establish, or operate and establish
5448 facilities deemed by the community service board as necessary and convenient for the
5449 administration, operation, or provision of disability services or of health services by the
5450 community service board and may construct, reconstruct, improve, alter, repair, and equip
5451 such facilities to the extent authorized by state and federal law.

5452 (c) Nothing shall prohibit a community service board from contracting with any county
5453 governing authority, private or other public provider, or hospital for the provision of
5454 disability services or of health services.

5455 (d) Each community service board exists for nonprofit and public purposes, and it is found
5456 and declared that the carrying out of the purposes of each community service board is
5457 exclusively for public benefit and its property is public property. Thus, no community
5458 service board shall be required to pay any state or local ad valorem, sales, use, or income
5459 taxes.

5460 (e) A community service board ~~does~~ shall not have the power to tax, the power to issue
5461 general obligation bonds or revenue bonds or revenue certificates, or the power to
5462 financially obligate the state or any county or any municipal corporation.

5463 (f) A community service board shall not operate any facility for profit. A community
5464 service board may fix fees, rents, rates, and charges that are reasonably expected to produce
5465 revenues, which, together with all other funds of the community service board, will be
5466 sufficient to administer, operate, and provide the following:

5467 (1) Disability services or health services;

5468 (2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating
5469 its facilities; and

5470 (3) The creation and maintenance of reserves sufficient to meet principal and interest
5471 payments due on any obligation of the community service board.

5472 (g) Each community service board may provide reasonable reserves for the improvement,
5473 replacement, or expansion of its facilities and services. Reserves under this subsection
5474 shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.

5475 (h) Each county and municipal corporation of this state is authorized to convey or lease
5476 property of such county or municipal corporation to a community service board for its
5477 public purposes. Any property conveyed or leased to a community services board by a
5478 county or municipal corporation shall be operated by such community service board in
5479 accordance with this chapter and the terms of the community service board's agreements
5480 with the county or municipal corporation providing such conveyance or lease.

5481 (i) Each community service board shall keep books of account reflecting all funds
5482 received, expended, and administered by the community service board which shall be
5483 independently audited annually.

5484 (j) A community service board may create, form, or become a member of a nonprofit
5485 corporation, limited liability company, or other nonprofit entity, the voting membership of
5486 which shall be limited to community service boards, governmental entities, nonprofit
5487 corporations, or a combination thereof, if such entity is created for purposes that are within
5488 the powers of the community service board, for the cooperative functioning of its members,
5489 or a combination thereof; provided, however, that no funds provided pursuant to a contract
5490 between the department and the community service board may be used in the formation or
5491 operation of the nonprofit corporation, limited liability company, or other nonprofit entity.
5492 No community service board, whether or not it exercises the power authorized by this
5493 subsection, shall be relieved of compliance with Chapter 14 of Title 50, relating to open
5494 and public meetings, and Article 4 of Chapter 18 of Title 50, relating to inspection of
5495 public records, unless otherwise provided by law.

5496 (k) No community service board shall employ or retain in employment, either directly or
5497 indirectly through contract, any person who is receiving a retirement benefit from the
5498 Employees' Retirement System of Georgia except in accordance with the provisions of
5499 subsection (c) of Code Section 47-2-110; provided, however, that any such person who is
5500 employed as of July 1, 2004, may continue to be employed.

5501 (l) A community service board may join or form and operate, either directly or indirectly,
5502 one or more networks of community service boards, disability or health service
5503 professionals, and other providers of disability services or health services to arrange for the
5504 provision of disability services or health services through such networks; to contract either
5505 directly or through such networks with the Department of Community Health to provide
5506 services to Medicaid beneficiaries; to provide disability services or health services in an
5507 efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis;
5508 and to undertake other disability or health services related managed care activities. For
5509 purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other
5510 provision of law, a community service board shall be permitted to and shall comply with
5511 the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to

the activities undertaken by the community service board or by a community service board under this subsection or subsection (j) of this Code section. No community service board, whether or not it exercises the powers authorized by this subsection, shall be relieved of compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law. Any licensed health care provider shall be eligible to apply to become a participating provider under such a plan or network that provides coverage for health care, ~~or disability services,~~ or health services which are within the lawful scope of the provider's license, but nothing in this Code section shall be construed to require any such plan or network to provide coverage for any specific health care, ~~or disability service,~~ or health service.

37-2-6.2.

(a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994, included the performance of employment duties or functions which will become employment duties or functions of the personnel of a community service board on July 1, 1994, shall become employees of the applicable community service boards on and after July 1, 1994. Such employees shall be subject to the employment practices and policies of the applicable community service board on and after July 1, 1994. Employees who are subject to the State Merit System of Personnel Administration and who are transferred to a community service board shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 1994, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 1994, without any interruption in membership service and without the loss of any creditable service. For purposes of coverage under the Employees' Retirement System of Georgia, such employees transferred to the community service boards on July 1, 1994, shall be deemed to be state employees. Accrued annual and sick leave possessed by said employees on June 30, 1994, shall be retained by said employees as employees of the community service board. Any person who is granted employment rights and benefits as a member of a community service board pursuant to this subsection and who later becomes employed, without any break in service, by the ~~division~~ department, Department of Human Services, or Department of Community Health, a hospital thereof, another community service board, a county board of health for which such person provides services pursuant to this title, or a regional board shall retain, in that later employment position, all such rights and benefits. Such rights and benefits shall also be retained by any person who is employed

on June 30, 1994, by the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health and Developmental Disabilities) of the former Department of Human Resources, a hospital thereof, a county board of health for which such person provides services pursuant to this title, or a regional board and who later becomes employed, without any break in service, by a community service board.

(2) Classified employees of a community service board under this chapter shall in all instances be employed and dismissed in accordance with rules and regulations of the State Merit System of Personnel Administration.

(3) All rights, credits, and funds in the Employees' Retirement System of Georgia which are possessed by personnel transferred by provisions of this Code section to the community service boards are continued and preserved, it being the intention of the General Assembly that such persons shall not lose any rights, credits, or funds to which they may be entitled prior to becoming employees of the community service boards.

(b) As to those persons employed by the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health and Developmental Disabilities) of the former Department of Human Resources, a hospital thereof, or a regional board on June 30, 1994, any termination from state employment after that date of any such person who is a member of the classified service shall not result from the anticipated or actual employment or utilization by:

(1) The department;

(2) A regional board;

(3) A community service board;

(4) A hospital; ~~or~~

(5) The Department of Human Services;

(6) The Department of Community Health; or

~~(5)(7)~~ (7) Any private provider of disability services or health services of any person who is not an employee of the state or a political subdivision thereof to perform the duties and functions of such terminated state personnel unless such termination and utilization is the result of a reduction in appropriations for such duties or functions or is the result of a reduction in force caused by any other state department or agency which has ceased to contract with the department, the Department of Human Services, or the Department of Community Health for the services which had been provided by the terminated state personnel.

5582 37-2-6.3.

5583 (a) A community service board is a public body as provided in paragraph (1) of subsection
5584 (c) of Code Section 37-2-11.1.

5585 (b) A community service board has the power to bring an action in its own name and, to
5586 the extent otherwise authorized by law and to the extent not immune from suit, may be
5587 sued in its own name. The state and the counties in which the community service board
5588 operates shall not be considered a party to or liable under any such litigation.

5589 (c) Debts, obligations, and liabilities of a community service board are not; debts,
5590 obligations, or liabilities of the state or of the counties in which such board operates. A
5591 community service board is prohibited from entering into debts, obligations, or liabilities
5592 which are also debts, obligations, or liabilities of the state or of any county.

5593 37-2-6.4.

5594 (a) Notwithstanding any other provisions of this chapter, a community service board may
5595 reconstitute or convert its organizational structure in the following ways:

5596 (1) With the approval of the governing board of the community service board and the
5597 approval of the county governing authorities of the counties served by the community
5598 service board, the community service board may convert to a private nonprofit
5599 corporation. So long as the reconstituted organization continues to serve a public purpose
5600 as defined by the department, the Department of Human Services, or the Department of
5601 Community Health, as appropriate, such organization shall be authorized to retain the use
5602 of assets, equipment, and resources purchased with state and federal funds by the former
5603 community service board. In the event the new private nonprofit fails to serve such
5604 public purpose, those assets, equipment, and resources purchased by the former
5605 community service board with state and federal funds shall be returned to the department,
5606 the Department of Human Services, or the Department of Community Health, as
5607 appropriate, or to an agency designated by ~~the~~ such department. For a period of three
5608 years following the community service board's conversion to a private nonprofit
5609 corporation, the private nonprofit corporation shall ensure that consumers of disability
5610 services or health services, as appropriate, and family members of such consumers
5611 constitute a majority of the appointed board members and that the various disability
5612 groups and health services groups are equitably represented on the board of the nonprofit
5613 corporation;

5614 (2) With the approval of the governing board of the community service board and the
5615 approval of all of the county governing authorities of the counties served by the
5616 community service board, the community service board may convert to a unit of county

government. All assets, equipment, and resources of the community service board shall be transferred to the new unit of county government; or

(3) With the approval of the governing board of the community service board and the approval of all of the county governing authorities of the counties served by the community service board, the community service board may become a component part of a hospital authority in those counties served by the community service board. So long as the hospital authority continues to serve a public purpose as defined by the department, the Department of Human Services, or the Department of Community Health, as appropriate, the hospital authority shall be authorized to retain possession of those assets, equipment, and resources purchased by the community service board with state and federal funds. In the event the hospital authority fails to serve such public purpose, those assets, equipment, and resources purchased by the community service board with state and federal funds shall be returned to the department, the Department of Human Services, or the Department of Community Health, as appropriate, or to an agency designated by ~~the~~ such appropriate department or departments.

(b) In the event that all county governing authorities of a community service area designated pursuant to subsection (b) of Code Section 37-2-3 concur that a community service board reconstituted pursuant to subsection (a) of this Code section has failed to provide disability services or health services as required, those county governing authorities may request that the ~~division~~ department coordinate the formation of a new community service board pursuant to Code Section 37-2-6. Upon notification of the request, the ~~division~~ department shall assist the county governing authorities in making appointments to the new community service board and establishing bylaws pursuant to Code Section 37-2-6. The ~~division~~ department shall make a determination about the disposition of all assets, equipment, and resources purchased with state or federal funding in the possession of the predecessor agency. To the extent that the community service board was providing disability services or health services through the Department of Human Services or the Department of Community Health, such department or departments shall provide to the Department of Behavioral Health and Developmental Disabilities all documents, data, information, and consultation necessary or helpful to the formation of the new community service board and the determination and disposition of assets, equipment, and resources of the community service board.

37-2-6.5.

(a) By joint action of the membership of a community service board created pursuant to Code Section 37-2-6 and the governing authority of each county within the community service board area, such community service board may cease operations; provided,

5653 however, such community service board shall notify the commissioner at least 90 days in
5654 advance of the meeting of the community service board in which such action is to be taken.
5655 Such joint action shall indicate the date on which the community service board shall cease
5656 operations.

5657 (b) Upon receipt of notification that a community service board intends to cease
5658 operations, the commissioner shall notify the chairperson and executive director of such
5659 community service board and the governing authority of each county within the community
5660 service board area of such board that:

5661 (1) The department, after securing the approval of the Governor, intends to appoint a
5662 manager or management team to manage and operate the programs and services of the
5663 community service board in accordance with the provisions of paragraph (1) of
5664 subsection (c) of Code Section 37-2-10 until the ~~division~~ department shall determine:

5665 (A) That such community service board should continue in operation, provided one or
5666 more members appointed to such board in accordance with subsection (b) of Code
5667 Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code
5668 Section 37-2-10, and the ~~division~~ department, acting on behalf of the membership of
5669 the community service board, nominates a successor to a removed member and advises
5670 the county governing authority that appointed such removed member to appoint a
5671 successor;

5672 (B) That all of the members of such community service board appointed in accordance
5673 with subsection (b) of Code Section 37-2-6 shall be removed and such community
5674 service board shall be reconstituted; and that the ~~division~~ department shall assist the
5675 county governing authorities in making appointments to the new community service
5676 board; or

5677 (C) In the case where the membership of such community service board is the
5678 membership of a county board of health designated in accordance with Code Section
5679 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the
5680 community service board should be removed and the membership of the community
5681 service board be reconstituted in accordance with subsection (b) of Code Section
5682 37-2-6;

5683 (2) The ~~division~~ department, with the approval of the commissioner, intends to
5684 redesignate the boundaries of the community service board area served by such board
5685 pursuant to paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the
5686 boundaries of an adjacent community service board area served by another community
5687 service board to include the counties in the community service board area served by the
5688 community service board that intends to cease operations so that the community service

5689 board serving such adjacent area may assume responsibility for the provision of disability
5690 services within such counties;

5691 (3) The department intends to request pursuant to Code Section 31-3-12.1 that the
5692 governing authority of a county within the community service board area of such board
5693 authorize the membership of the board of health of such county to serve as the
5694 membership of such community service board; or

5695 (4) The department, after securing the approval of the Governor, intends to appoint a
5696 manager or management team to manage and operate the programs and services of the
5697 community service board until such time as arrangements can be made to secure one or
5698 more alternate service providers to assume responsibility for the provision of services
5699 previously provided by the community service board.

5700 (c) If a community service board ceases operation and is succeeded by another community
5701 service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3),
5702 or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code
5703 section, the ~~division~~ department shall make a determination about the disposition of all
5704 assets, equipment, and resources purchased with state or federal funding in the possession
5705 of the predecessor community service board.

5706 (d) If a community service board ceases operation and one or more alternate service
5707 providers assume responsibility for the provision of services previously provided by the
5708 community service board pursuant to paragraph (4) of subsection (b) of this Code section,
5709 the department shall petition the superior court of the county in which the principal office
5710 of that community service board was located for appointment of a receiver of the assets of
5711 the community service board for the protection of the board's creditors and the public. The
5712 receiver shall be authorized to marshal and sell or transfer assets of the board, and, after
5713 payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities
5714 of the community service board. The court shall then decree that the board be dissolved.
5715 Upon completion of the liquidation, any surplus remaining after paying all costs of the
5716 liquidation shall be distributed, as determined by the court, to the agencies, entities, or
5717 providers providing disability services in the community service board area formerly
5718 served by the community service board which ceased operations. At no time shall any
5719 community service board upon ceasing operations convey any of its property, except as
5720 may be otherwise authorized by a superior court in this subsection, to any private person,
5721 association, or corporation.

5722 37-2-7.

5723 (a) The ~~division~~ department shall formulate and publish biennially a state plan for
5724 disability services which shall take into account the disability services plans submitted by

5725 the regional offices as required by Code Section 37-2-5.2. The state disability services plan
5726 shall be comprehensive and shall include public and private institutional and community
5727 services to the disabled. In developing the state plan, the ~~division~~ department shall request
5728 input from the regional offices and planning boards, the community service boards,
5729 hospitals, and other public and private providers. The plan shall include an overview of
5730 current services and programs and shall also present information on future program,
5731 service, educational, and training needs.

5732 (b) The plan shall address ways of eliminating, to the extent possible, detrimental delays
5733 and interruptions in the administration of disability services when moving an individual
5734 from one element of service to another in order to ensure continuity of care and treatment
5735 for persons receiving such services.

5736 (c) The plan shall further set forth the proposed annual budget of the ~~division~~ department
5737 and the regions.

5738 (d) The plan shall be submitted to the department, the Governor, the General Assembly,
5739 the ~~Governor's~~ council, the regional planning boards, the hospitals, the community service
5740 boards, and any other public or private provider requesting a copy of the plan.

5741 (e) At such time as the state plan is submitted, the ~~division~~ department shall further submit
5742 an analysis of services provided, programs instituted, progress made, and the extent of
5743 implementation of the previous biennial plan. Such analysis shall measure the
5744 effectiveness and the efficiency of the methods of delivering services which ameliorate or
5745 prevent disability and restore health. This analysis shall further address the efforts of the
5746 ~~division~~ department in coordinating services in accordance with Code Section 37-2-9.

5747 37-2-8.

5748 Reserved.

5749 37-2-9.

5750 To the maximum extent possible, disability services provided by the ~~division~~ department
5751 and the regional offices, hospitals, community service boards, and other public and private
5752 providers shall be coordinated with related activities of the department and judicial,
5753 correctional, educational, social, and other health service agencies and organizations, both
5754 private and public.

5755 37-2-9.1.

5756 (a) Each regional planning board and community service board shall comply with the
5757 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4

of Chapter 18 of Title 50, relating to inspection of public records, except where records or proceedings are expressly made confidential pursuant to other provisions of law.

(b) Each regional office and community service board and other public and private providers are authorized to establish one or more advisory boards for the purpose of ensuring coordination with various agencies and organizations and providing professional and other expert guidance.

37-2-10.

(a) Notwithstanding any other provisions of the law, the ~~director~~ commissioner with the concurrence of ~~the commissioner~~ and the Governor is authorized to establish and administer community programs on an emergency basis in the event one or more community service boards fail to assume responsibility for the establishment and implementation of an adequate range of disability services or to provide appropriate disability services as determined by the ~~division~~ department or substantially breach their contracts with the department pursuant to this chapter.

(b) Upon notification by a community service board of an inability to provide an adequate range of disability services or to provide appropriate services, the ~~director~~ commissioner, with concurrence of ~~the commissioner~~ and the Governor, may:

(1) Assume responsibility for the administration and operation of all of the community programs operated by or through such board and, in which case, the programs shall become department programs; the department shall acquire the assets of the community service board; and the community service board employees shall become employees of the department; or

(2) Assume responsibility for the administration and operation of one or more of the community programs operated by or through such board, in which case, such program or programs shall become a department program or programs; the department shall acquire those assets of the community service board assigned to such program or programs; and the employees of such program or programs shall become employees of the department. Any community service board programs not transferred to the department shall continue to be operated by the community service board and the employees for such programs shall remain community service board employees.

(c)(1) Notwithstanding any other provisions of the law, in extenuating circumstances, the ~~director~~ commissioner with the concurrence of ~~the commissioner~~ and the Governor is authorized to appoint a manager or management team to manage and operate the programs and services of the community service board if the ~~director~~ commissioner finds that the community service board:

- 5793 (A) Provides notice pursuant to Code Section 37-2-6.5 that such board intends to cease
 5794 operations;
- 5795 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a
 5796 contract with the department;
- 5797 (C) Misused state or federal funds;
- 5798 (D) Engaged in a fraudulent act, transaction, practice, or course of business;
- 5799 (E) Endangered the life, safety, or health of a consumer served by the community
 5800 service board;
- 5801 (F) Failed to keep fiscal records and maintain proper control over its assets;
- 5802 (G) Failed to respond to a substantial deficiency in a review or audit;
- 5803 (H) Otherwise substantially failed to comply with this chapter or the rules or standards
 5804 of the department ~~or division~~; or
- 5805 (I) No longer has the fiscal ability to continue to provide contracted services and,
 5806 without the intervention of the department, continued provision of disability services
 5807 or health services to consumers in the service area is in immediate jeopardy.
- 5808 (2) In order to carry out the provisions of paragraph (1) of this subsection, the ~~director~~
 5809 commissioner shall give written notice to the community service board regarding the
 5810 appointment of a manager or management team and the circumstances on which the
 5811 appointment is based. The ~~director~~ commissioner may require the community service
 5812 board to pay costs incurred by the manager or management team.
- 5813 (3) Subject to the determination of the ~~director~~ commissioner, a manager or management
 5814 team appointed pursuant to this subsection may:
- 5815 (A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure,
 5816 operation, or the management of the community service board;
- 5817 (B) Hire, supervise, discipline, reassign, or terminate the employment of an employee
 5818 of the community service board;
- 5819 (C) Reallocate the resources and manage the assets of the community service board;
- 5820 (D) Require that a financial transaction, expenditure, or contract for goods and services
 5821 be approved by the manager or management team;
- 5822 (E) Redesign, modify, or terminate a program or service of the community service
 5823 board;
- 5824 (F) Direct the members of the community service board, the executive director, chief
 5825 financial officer, or any other administrative or program manager to take an action;
- 5826 (G) Exercise a power, duty, authority, or function of the community service board as
 5827 authorized by this chapter;
- 5828 (H) Recommend to the ~~director~~ commissioner the removal of a member or the
 5829 executive director of the community service board; and the provisions of any law to the

5830 contrary notwithstanding, the ~~director~~ commissioner may remove such member or
5831 executive director from office; and

5832 (I) Report at least monthly to the ~~director~~ commissioner on actions taken.

5833 (4) A manager or management team appointed pursuant to this subsection may not use
5834 or dispose of any asset or funds contributed to the community service board by the
5835 governing authority of a county or municipal corporation without the approval of such
5836 governing authority.

5837 (5) If a manager or management team is appointed pursuant to this Code section, the
5838 department may:

5839 (A) Upon a determination that the conditions that gave rise to the appointment of a
5840 manager or management team pursuant to this subsection have been met and that such
5841 manager or management team is no longer necessary, terminate the authority delegated
5842 to such manager or management team and restore authority to the community service
5843 board to manage and operate the services and programs of the community service
5844 board; or

5845 (B) Operate and manage the programs of the community service board until such time
5846 as arrangements can be made to secure one or more alternative service providers to
5847 assume responsibility for the provision of services previously provided by the
5848 community service board. If this option is exercised, the department shall petition the
5849 appropriate superior court for appointment of a receiver pursuant to subsection (d) of
5850 Code Section 37-2-6.5.

5851 (6) Nothing in this subsection shall be construed to prohibit the department from
5852 canceling a contract with a community service board.

5853 37-2-11.

5854 (a) It is the goal of the State of Georgia that every citizen be provided an adequate level
5855 of disability care through a unified system of disability services. To this end, the
5856 department ~~through the division~~ shall, to the maximum extent possible, allocate funds
5857 available for services so as to provide an adequate disability services program available to
5858 all citizens of this state. In funding and providing disability services, the ~~division~~
5859 department and the regional offices shall ensure that all providers, public or private, meet
5860 minimum standards of quality and competency as established by the department ~~and the~~
5861 ~~division~~.

5862 (b) Fees generated, if any, by hospitals, community service boards, and other private and
5863 public providers, providing services under contract or purview of the ~~division~~ department,
5864 shall be reported to the ~~division~~ department and applied wherever appropriate against the
5865 cost of providing, and increasing the quantity and quality of, disability services; provided,

however, that income to a community service board derived from fees may be used to further the purposes of such community service board as found in Code Section 37-3-6.1, subject to appropriations. The ~~division~~ department shall be responsible for developing procedures to properly account for the collection, remittance, and reporting of generated fees. The ~~division~~ department shall work with the community service boards and other public or private providers to develop an appropriate mechanism for accounting for the funds and resources contributed to local disability services by counties and municipalities within the area. Such contributions are not required to be submitted to either the community service boards or the ~~division~~ department; however, appropriate documentation and accounting entries shall make certain that the county or municipality is credited, and if necessary compensated, appropriately for such contribution of funds or resources.

(c) No person shall be denied disability services provided by the state as defined in this chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however, unless otherwise prohibited by law or contract, providers of disability services may deny nonemergency disability services to any person who is able to pay, but who refuses to pay. The ~~division~~ department shall develop a state-wide sliding fee scale for the provision of disability services and shall promulgate standards that define emergency disability services and refusal to pay.

37-2-11.1.

(a) Venue for the purpose of any action against a community service board shall be the county in which the principal office of the community service board is located. For purposes of this Code section, 'principal office' shall be defined as the facility which houses the executive director or other such top administrator for the community service board.

(b) In any legal proceeding, a regional planning board or the regional office shall be considered a unit of the ~~division~~ department and shall be afforded the assistance of legal counsel from the Attorney General.

(c)(1) The community service boards shall be public bodies but shall not be considered agencies of the state or any specific county or municipality. Such community service boards are public agencies in their own right and shall have the same immunity as provided for counties. No county shall be liable for any action, error, or omission of a community service board. Notwithstanding any provisions of law to the contrary, and regardless of any provisions of law which grant employees of the community service boards benefits under programs operated by the state or which deem them to be state employees only for purposes of those benefits, employees of the community service boards shall not be employees of the state but shall be employees of the community

5901 service boards and, further, the state shall not be liable for any action, error, or omission
5902 of such employees.

5903 (2) A community service board may employ or contract for legal counsel to assist in
5904 performing its duties and shall be authorized to appoint legal counsel to represent the
5905 community service board and its employees. The community service board may exercise
5906 any authority granted in Article 2 of Chapter 9 of Title 45, relating to the indemnification,
5907 defense, and insuring of members and employees of public bodies.

5908 37-2-11.2.

5909 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of
5910 patient and client care, any program receiving any public funds from, or subject to
5911 licensing, certification, or facility approval by, the department, the Department of Human
5912 ~~Resources~~ Services, the Department of Community Health, or a regional office shall be
5913 required to provide the department or the appropriate regional office or both, upon request,
5914 complete access to, including but not limited to authorization to examine and reproduce,
5915 any records required to be maintained in accordance with contracts, standards, or rules and
5916 regulations of the department, the Department of Human ~~Resources~~ Services, or the
5917 Department of Community Health or pursuant to the provisions of this title.

5918 (b) Records obtained pursuant to subsection (a) of this Code section shall not be
5919 considered public records and shall not be released by the department, the Department of
5920 Human Services, the Department of Community Health, or any regional office unless
5921 otherwise specifically authorized by law.

5922 (c) The community service board shall maintain a clinical record for each consumer
5923 receiving treatment or habilitation services from such board. The treatment of clinical
5924 records of consumers in receiving services for mental illness shall be governed by the
5925 provisions of Code Section 37-3-166. The treatment of clinical records of consumers
5926 receiving habilitation services for developmental disabilities shall be governed by the
5927 provisions of Code Section 37-4-125. The treatment of clinical records of consumers in
5928 treatment for addictive diseases shall be governed by the provisions of Code Section
5929 37-7-166."

5930 **SECTION 3-2.**

5931 The following Code sections of the Official Code of Georgia Annotated are amended by
5932 replacing "Department of Human Resources" wherever it occurs with "Department of
5933 Behavioral Health and Developmental Disabilities":

5934 (1) Code Section 15-11-73, relating to juvenile traffic offenses;

- 5935 (2) Code Section 15-11-152, relating to ordering an evaluation of a child's mental
5936 condition;
- 5937 (3) Code Section 16-7-83, relating to persons convicted or under indictment for certain
5938 offenses;
- 5939 (4) Code Section 16-11-129, relating to license to carry pistol or revolver;
- 5940 (5) Code Section 17-7-130, relating to proceedings upon plea of mental incompetency
5941 to stand trial;
- 5942 (6) Code Section 17-7-131, relating to proceedings upon plea of insanity or mental
5943 incompetency at time of crime;
- 5944 (7) Code Section 26-4-5, relating to definitions relative to the "Georgia Pharmacy
5945 Practice Act";
- 5946 (8) Code Section 33-24-28, relating to termination of coverage of dependent child upon
5947 attainment of specified age;
- 5948 (9) Code Section 37-3-146, relating to education of children undergoing treatment in a
5949 facility for persons who are mentally ill;
- 5950 (10) Code Section 37-3-150, relating to right to appeal orders of probate court, juvenile
5951 court, or hearing examiner;
- 5952 (11) Code Section 37-4-4, relating to coordination of training programs for the mentally
5953 retarded;
- 5954 (12) Code Section 37-4-110, relating to appeal rights of clients, their representatives, or
5955 attorneys relating to habilitation of mentally retarded persons;
- 5956 (13) Code Section 37-5-4, relating to applicability of the "Community Services Act for
5957 the Mentally Retarded";
- 5958 (14) Code Section 37-5-7, relating to duty of the Department of Human Resources to
5959 provide consulting and financial assistance to county boards of health;
- 5960 (15) Code Section 37-7-3, relating to coordination of state drug and alcohol abuse
5961 programs;
- 5962 (16) Code Section 37-7-146, relating to education of children undergoing treatment in
5963 a facility for persons who are alcoholics, drug dependent individuals, or drug abusers;
- 5964 (17) Code Section 37-7-150, relating to right to appeal orders of probate court, juvenile
5965 court, or hearing examiner;
- 5966 (18) Code Section 40-5-82, relating to administration of the Driver Improvement
5967 Program;
- 5968 (19) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;
- 5969 (20) Code Section 42-8-35.3, relating to conditions of probation for stalking or
5970 aggravated stalking;

- 5971 (21) Code Section 42-9-41, relating to duty of the State Board of Pardons and Paroles
5972 to obtain and place in records information respecting persons subject to relief or placed
5973 on probation;
- 5974 (22) Code Section 43-12A-5, relating to provider centers that engage in the practice of
5975 providing, installing, or monitoring ignition interlock devices not to operate under any
5976 name deceptively similar to another business;
- 5977 (23) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies
5978 providing services to the mentally retarded;
- 5979 (24) Code Section 49-5-221, relating to definitions relative to children and adolescents
5980 with severe emotional problems;
- 5981 (25) Code Section 49-5-223, relating to the State Plan for the Coordinated System of
5982 Care for children and adolescents with severe emotional problems;
- 5983 (26) Code Section 49-5-224, relating to the submission by the commissioner of human
5984 resources of an annual report on the State Plan for the Coordinated System of Care;
- 5985 (27) Code Section 49-5-227, relating to the Governor's Office for Children and Families
5986 to comment on the State Plan for Coordinated System of Care and provide
5987 recommendations; and
- 5988 (28) Code Section 50-27-24, relating to lottery prize proceeds subject to state income tax.

5989 **SECTION 3-3.**

5990 The following Code sections of the Official Code of Georgia Annotated are amended by
5991 replacing "commissioner of human resources" wherever it occurs with "commissioner of
5992 behavioral health and developmental disabilities":

- 5993 (1) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;
5994 and
- 5995 (2) Code Section 49-5-224, relating to the submission by the commissioner of human
5996 resources of an annual report on the State Plan for the Coordinated System of Care;

5997 **SECTION 3-4.**

5998 The following Code sections of the Official Code of Georgia Annotated are amended by
5999 replacing "Division of Mental Health, Developmental Disabilities, and Addictive Diseases
6000 of the Department of Human Resources" wherever it occurs with "Department of Behavioral
6001 Health and Developmental Disabilities":

- 6002 (1) Code Section 15-11-149, relating to disposition of mentally ill or mentally retarded
6003 child;
- 6004 (2) Code Section 40-5-64, relating to limited driving permits for certain offenders;
- 6005 (3) Code Section 45-18-5.2, relating to sheltered employment center employees; and

6006 (4) Code Section 49-4A-9, relating to sentence of youthful offenders.

6007 **SECTION 3-5.**

6008 The following Code sections of the Official Code of Georgia Annotated are amended by
6009 replacing "mentally retarded" or "Mentally Retarded" wherever it occurs with
6010 "developmentally disabled" or "Developmentally Disabled", respectively:

- 6011 (1) Code Section 31-22-9.1, relating to who may perform HIV tests;
- 6012 (2) Code Section 35-1-8, relating to the acquisition, collection, classification, and
6013 preservation of information assisting in identifying deceased persons and locating missing
6014 persons;
- 6015 (3) Code Section 37-4-1, relating to the declaration of policy relating to the habilitation
6016 of mentally retarded persons generally;
- 6017 (4) Code Section 37-4-3, relating to the authority of the board of human resources to
6018 issue regulations relating to the habilitation of mentally retarded persons generally;
- 6019 (5) Code Section 37-4-4, relating to coordination of training programs for the mentally
6020 retarded;
- 6021 (6) Code Section 37-4-5, relating to validity of hospital orders entered before September
6022 1, 1978;
- 6023 (7) Code Section 37-4-8, relating to approval of private facilities;
- 6024 (8) Code Section 37-4-20, relating to examination of minor children;
- 6025 (9) Code Section 37-4-21, relating to admission of mentally retarded persons to facilities
6026 for purposes of temporary supervision and care;
- 6027 (10) Code Section 37-4-22, relating to admission of persons to facilities for dental
6028 services;
- 6029 (11) Code Section 37-4-40, relating to filing petition with the court for according of
6030 program of services to mentally retarded person;
- 6031 (12) Code Section 37-4-40.1, relating to certification that a person requires temporary
6032 care;
- 6033 (13) Code Section 37-4-40.2, relating to admission or discharge of a person in custody
6034 of a state facility for temporary care;
- 6035 (14) Code Section 37-4-42, relating to procedure for continuation of court ordered
6036 habilitation;
- 6037 (15) Code Section 37-4-62, relating to transfer of clients to custody of federal agencies
6038 for services;
- 6039 (16) Code Section 37-4-120, relating to individual dignity of clients to be respected;
- 6040 (17) Code Section 37-4-123, relating to recognition of clients' physical integrity;
- 6041 (18) Code Section 37-5-1, relating to the short title;

- 6042 (19) Code Section 37-5-2, relating to declaration of policy relative to community
6043 services for the mentally retarded;
- 6044 (20) Code Section 37-5-4, relating to applicability of chapter;
- 6045 (21) Code Section 37-5-5, relating to duty of county board of health to provide
6046 community services;
- 6047 (22) Code Section 37-5-6, relating to county or health district plan for community
6048 services;
- 6049 (23) Code Section 37-5-7, relating to duty of department to provide consulting and
6050 financial assistance to county boards of health;
- 6051 (24) Code Section 37-6-2, relating to participation by department in financing of
6052 day-care centers for mentally retarded children;
- 6053 (25) Code Section 37-6-3, relating to participation by department in financing of
6054 day-care centers generally;
- 6055 (26) Code Section 37-6-4, relating to grants-in-aid to county board of health for purchase
6056 of services from private day-care centers;
- 6057 (27) Code Section 37-6-6, relating to inspection and approval of day-care centers;
- 6058 (28) Code Section 37-6-7, relating to departmental standards for day-care centers;
- 6059 (29) Code Section 37-9-6, relating to standards for determination of assessments for less
6060 than full cost of care;
- 6061 (30) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies
6062 providing services to the mentally retarded;
- 6063 (31) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";
6064 and
- 6065 (32) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

6066 **SECTION 3-6.**

6067 The following Code sections of the Official Code of Georgia Annotated are amended by
6068 replacing "mental retardation" wherever it occurs with "developmental disability":

- 6069 (1) Code Section 31-12-3.2, relating to meningococcal disease;
- 6070 (2) Code Section 31-32-4, relating to the advance directives for health care form;
- 6071 (3) Code Section 33-24-28, relating to termination of coverage of dependent child upon
6072 attainment of specified age;
- 6073 (4) Code Section 37-4-40.4, relating to evaluation of a person in custody of a state
6074 facility for temporary care;
- 6075 (5) Code Section 37-4-61, relating to transportation of clients generally;
- 6076 (6) Code Section 49-4-31, relating to definitions relative to old-age assistance;

- 6077 (7) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";
6078 and
6079 (8) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

6080 **SECTION 3-7.**

6081 The following Code sections of the Official Code of Georgia Annotated are amended by
6082 replacing "mental retardation" wherever it occurs with "a developmental disability":

- 6083 (1) Code Section 31-20-3, relating to sterilization of mentally incompetent persons;
6084 (2) Code Section 37-4-80, relating to effect of inability to pay on right to habilitation
6085 services;
6086 (3) Code Section 37-4-100, relating to retention of rights and privileges by clients
6087 generally; and
6088 (4) Code Section 37-4-122, relating to client's care and treatment rights.

6089 **SECTION 3-8.**

6090 Code Section 30-8-1 of the Official Code of Georgia Annotated, relating to the Governor's
6091 Council on Developmental Disabilities, is amended as follows:

6092 "30-8-1.

6093 (a) There is created the ~~Governor's~~ Georgia Council on Developmental Disabilities. The
6094 council shall serve as the designated state agency and state planning council for purposes
6095 of carrying out the provisions of Chapter 75 of Title 42 of the United States Code, as now
6096 or hereafter amended, relating to programs for persons with developmental disabilities.

6097 (b) The members of the council shall be appointed by the Governor from among the
6098 residents of the state, and the composition of the council shall comply with the membership
6099 requirements of Chapter 75 of Title 42 of the United States Code, as now or hereafter
6100 amended. The Governor shall consider appointing to the council persons representing a
6101 broad range of individuals with developmental disabilities and individuals interested in
6102 programs for the developmentally disabled. To the extent feasible, appointments to the
6103 council shall be made with a view toward equitable geographic, racial, and ethnic
6104 representation.

6105 (c) Each member shall serve for a term of four years or until a successor is appointed.
6106 Members shall be eligible to succeed themselves. Vacancies shall be filled in the same
6107 manner as original appointments. The council shall elect its own chairperson and such
6108 other officers as it deems necessary. The council may adopt rules and procedures and shall
6109 meet at the call of the chairperson.

6110 (d) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall:

- 6111 (1) Develop and implement a state plan, which includes the specification of federal and
6112 state priority areas, to address on a state-wide and comprehensive basis the need for
6113 services, support, and other assistance for individuals with developmental disabilities and
6114 their families;
- 6115 (2) Monitor, review, and evaluate, not less than annually, the implementation and
6116 effectiveness of the plan;
- 6117 (3) Submit to the United States secretary of health and human services, through the
6118 Governor, such plan and periodic reports on the council's activities as the secretary finds
6119 necessary;
- 6120 (4) Receive, account for, and disburse funds paid to the state pursuant to the provisions
6121 of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, and
6122 as authorized by the approved state plan;
- 6123 (5) To the maximum extent feasible, review and comment on all plans in the state which
6124 relate to programs affecting persons with developmental disabilities;
- 6125 (6) Serve as an advocate for persons with developmental disabilities;
- 6126 (7) Advise the Governor, the General Assembly, and all other state agencies in matters
6127 relating to developmentally disabled persons; and
- 6128 (8) Fulfill the responsibilities and meet the requirements of a designated state agency and
6129 of a state planning council as provided by Chapter 75 of Title 42 of the United States
6130 Code, as now or hereafter amended.
- 6131 (e) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall be attached to the
6132 Department of ~~Human Resources~~ Behavioral Health and Developmental Disabilities for
6133 administrative purposes only as provided in Code Section 50-4-3. The council shall recruit
6134 and hire staff as provided by law and as the council determines necessary to carry out its
6135 duties. All costs incurred by the council shall be covered by funds paid to the state under
6136 Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, except that
6137 members who are state employees shall be reimbursed for their expenses by their agency
6138 in the same manner as other state employees. Members who are not state employees shall
6139 be reimbursed for their actual expenses, including travel and any other expenses incurred
6140 in performance of their council duties, from funds appropriated to the Department of
6141 ~~Human Resources~~ Behavioral Health and Developmental Disabilities."

6142 **SECTION 3-9.**

6143 Code Section 31-3-12.1 of the Official Code of Georgia Annotated, relating to contracts
6144 between county boards, is amended as follows:

6145 "31-3-12.1.

6146 (a) In addition to any other power authorized by law, the county governing authority may
6147 authorize the county board of health to enter into a contract with the ~~department~~
6148 Department of Behavioral Health and Developmental Disabilities or a community mental
6149 health, developmental disabilities, and addictive diseases service board created under
6150 Chapter 2 of Title 37 to provide certain mental health, developmental disabilities, and
6151 addictive diseases services based on the contractual agreement between the parties. In the
6152 event that the county governing authority exercises the authority granted by this subsection,
6153 the county board of health shall appoint a director for mental health, developmental
6154 disabilities, and addictive diseases or a supervisor of the specific service which is being
6155 provided by the county board of health, whichever is applicable, who shall meet the
6156 requirements established by this subsection. The director for mental health, developmental
6157 disabilities, and addictive diseases, or the service supervisor, shall not be required to be a
6158 physician and shall be a person other than the director of the county board of health
6159 appointed pursuant to Code Section 31-3-11. Further, such director for mental health,
6160 developmental disabilities, and addictive diseases or such supervisor of the specific service
6161 shall report directly to the county board of health and shall have no formal reporting
6162 relationship with the director of the county board of health.

6163 (b) Pursuant to subsection (e) of Code Section 37-2-6, a county governing authority may
6164 authorize the membership of a county board of health to serve as the membership of a
6165 community mental health, developmental disabilities, and addictive diseases service board,
6166 provided that the county governing authority, the county board of health, and any other
6167 affected county governing authority act pursuant to subsection (e) of Code Section 37-2-6.
6168 If the membership of a county board of health exercises the authority granted pursuant to
6169 this subsection and Chapter 2 of Title 37 to serve as the membership of a community
6170 service board, the membership of the county board of health shall constitute the
6171 membership of the community service board and, at any time that such members are
6172 exercising duties and powers related to mental health, developmental disabilities, and
6173 addictive diseases, the community service board shall be an independent agency and shall
6174 operate in accordance with the provisions of Title 37 as a community service board.
6175 Notwithstanding any provisions of law to the contrary, a community service board and a
6176 county board of health which have the same membership may contract with each other,
6177 provided that any such contract is approved by the department and the Department of
6178 Behavioral Health and Developmental Disabilities prior to adoption."

SECTION 3-10.

Code Section 35-3-34.1 of the Official Code of Georgia Annotated, relating to circumstances when exonerated first offender's criminal record may be disclosed, is amended by revising paragraph (3) of subsection (a) as follows:

"(3) The request for information is an inquiry about a person who has applied for employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides services to persons who are mentally ill as defined in Code Section ~~37-3-1~~ 37-1-1 or ~~mentally retarded~~ developmentally disabled as defined in Code Section ~~37-4-2~~ 37-1-1, and the person who is the subject of the inquiry to the center was prosecuted for the offense of sexual battery, incest, pimping, or pandering."

SECTION 3-11.

Code Section 37-2-30 of the Official Code of Georgia Annotated, relating to definitions relative to the office of disability services ombudsman, is amended by revising paragraph (3) as follows:

"(3) 'Consumer' means a natural person who has been or is a recipient of disability services as defined in Code Section ~~37-2-2~~ 37-1-1 and shall include natural persons who are seeking disability services."

SECTION 3-12.

Code Section 37-3-1 of the Official Code of Georgia Annotated, relating to definitions relative to the examination and treatment for mental illness, is amended by revising paragraphs (11) and (12) and repealing paragraph (14.2) as follows:

~~"(11) 'Mentally ill' means having a disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life. Reserved."~~

"(12) 'Mentally ill person requiring involuntary treatment' means a mentally ill person who is an inpatient or an outpatient."

~~"(14.2) 'Regional state hospital administrator' means the chief administrative officer of a state owned or state operated hospital and the state owned or operated community programs in a region. The regional state hospital administrator, under the supervision of the regional coordinator, has overall management responsibility for the regional state hospital and manages services provided by employees of the regional state hospital and employees of state owned or operated community programs within a mental health, developmental disabilities, and addictive diseases region established in accordance with Code Section 37-2-3."~~

SECTION 3-13.

Code Section 37-4-2 of the Official Code of Georgia Annotated, relating to definitions relative to the habilitation of the mentally retarded, is amended as follows:

"37-4-2.

As used in this chapter, the term:

(1) 'Client' means any ~~mentally-retarded~~ person with a developmental disability who seeks habilitation under this chapter or any person for whom such habilitation is sought.

(2) 'Clinical record' means a written record pertaining to an individual client and includes habilitation record, progress notes, charts, admission and discharge data, and all other information which is recorded by a facility and which pertains to the client's habilitation. Such other information as may be required by rules and regulations of the board shall also be included.

(3) 'Community services' means all services deemed reasonably necessary by the Department of ~~Human Resources~~ Behavioral Health and Developmental Disabilities to provide for the education, training, habilitation, and care of ~~mentally-retarded~~ developmentally disabled individuals. Such services shall include, but not be limited to, diagnostic and evaluation services, day-care and training services, work activity services, community residential services such as group family care homes, transportation services, social services, medical services, and specified home services.

(4) 'Comprehensive evaluation team' or 'comprehensive habilitation team' means and shall consist of a group of persons with special training and experience in the assessment of needs and provision of services for ~~mentally-retarded~~ developmentally disabled persons, which group shall include, at a minimum, persons qualified to provide social, psychological, medical, and other services. The department shall specify the qualifications of the individuals who ~~compose~~ comprise a comprehensive evaluation team or a comprehensive habilitation team and shall ensure that such teams are located throughout the state so as to provide diagnostic, evaluation, and habilitation services for all citizens of Georgia.

(5) 'Court' means:

(A) In the case of an individual who is 17 years of age or older, the probate court of the county of residence of the client or the county in which such client is found. Notwithstanding Code Section 15-9-13, in any case in which the judge of said probate court is unable to hear a case brought under this chapter within the time required for such hearing, said judge shall appoint a person to serve and exercise all the jurisdiction of the probate court in such case. Any person so appointed shall be a member of the State Bar of Georgia and shall be otherwise qualified for his or her duties by training and experience. Such appointment may be made on a case-by-case basis or by making

6250 a standing appointment of one or more persons. Any person receiving such standing
 6251 appointment shall serve at the pleasure of the judge making the appointment or ~~his~~ the
 6252 judge's successor in office to hear such cases if and when necessary. The compensation
 6253 of a person so appointed shall be as agreed upon by the judge who makes the
 6254 appointment and the person appointed with the approval of the governing authority of
 6255 the county for which such person is appointed and shall be paid from the county funds
 6256 of said county. All fees collected for the services of such appointed person shall be
 6257 paid into the general funds of the county served; or

6258 (B) In the case of an individual who is under the age of 17 years, the juvenile court of
 6259 the county of residence of the client or the county in which such client is found.

6260 (6) 'Developmentally disabled person in need of community services' means a
 6261 developmentally disabled person who, after comprehensive evaluation, is found to be in
 6262 need of community services as defined in Code Section 37-5-3.

6263 (7) 'Developmentally disabled person requiring temporary and immediate care' means
 6264 a person who is developmentally disabled, and:

6265 (A) Who presents a substantial risk of imminent harm to himself or herself or others;

6266 (B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain
 6267 developmental, medical, or behavioral needs; and

6268 (C) For whom there currently exists no available, appropriate community residential
 6269 setting for meeting the needs of the person.

6270 ~~(6)~~(8) 'Facility' means any state owned or state operated institution utilized 24 hours a
 6271 day for the habilitation and residence of persons who are ~~mentally-retarded~~
 6272 developmentally disabled, any facility operated or utilized for such purpose by the United
 6273 States Department of Veterans Affairs or any other federal agency, and any other facility
 6274 within the State of Georgia approved for such purpose by the department.

6275 ~~(7)~~(9) 'Full and fair hearing' or 'hearing' means a proceeding before a hearing examiner,
 6276 under Code Section 37-4-42, or before a court, as defined in paragraph (5) of this Code
 6277 section. The hearing may be held in a regular courtroom or in an informal setting, in the
 6278 discretion of the hearing examiner or the court, but the hearing shall be recorded
 6279 electronically or by a qualified court reporter. The client shall be provided with effective
 6280 assistance of counsel. If the client cannot afford counsel, the court shall appoint counsel
 6281 for him or her or the hearing examiner shall have the court appoint such counsel. The
 6282 client shall have the right to confront and cross-examine witnesses and to offer evidence.
 6283 The client shall have the right to subpoena witnesses and to require testimony before the
 6284 hearing examiner or in court in person or by deposition from any physician upon whose
 6285 evaluation the decision of the hearing examiner or the court may rest. The client shall
 6286 have the right to obtain a continuance for any reasonable time for good cause shown. The

hearing examiner and the court shall apply the rules of evidence applicable in civil cases. The burden of proof shall be upon the party seeking treatment of the client. The standard of proof shall be by clear and convincing evidence. At the request of the client, the public may be excluded from the hearing; and the client need not be present if the court consents; in either of these events, the record shall reflect the reason for the hearing examiner's or the court's action.

~~(8)~~(10) 'Habilitation' means the process by which program personnel help clients acquire and maintain those life skills which will enable them to cope more effectively with the demands of their own persons and of their environment and to raise the level of their physical, mental, social, and vocational abilities.

~~(9)~~(11) 'Individualized program plan' means a proposed habilitation program written in behavioral terms, developed by the comprehensive evaluation team, and specifically tailored to the needs of an individual client. Each plan shall include:

- (A) A statement of the nature of the client's specific problems and specific needs;
- (B) A description of intermediate and long-range habilitation goals and a projected timetable for their attainment;
- (C) A description of the proposed habilitation program and its relation to habilitation goals;
- (D) Identification of the facility and types of professional personnel responsible for execution of the client's habilitation program;
- (E) A statement of the least restrictive environment necessary to achieve the purposes of habilitation, based upon the needs of the client;
- (F) An explanation of criteria for acceptance or rejection of alternative environments for habilitation; and
- (G) Proposed criteria for release of the client into less restrictive habilitation environments upon obtaining specified habilitation goals.

~~(10)~~(12) 'Least restrictive alternative,' 'least restrictive environment,' or 'least restrictive appropriate habilitation' means that which is the least restrictive available alternative, environment, or appropriate habilitation, as applicable, within the limits of state funds specifically appropriated therefor.

~~(11)~~ 'Mental retardation' means a state of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating in the developmental period.

~~(12)~~ 'Mentally retarded person' means a person having a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating in the developmental period.

6323 (13) 'Mentally retarded person in need of community services' means a mentally retarded
 6324 person who, after comprehensive evaluation and a hearing, is found to be in need of
 6325 community services as defined in Code Section 37-5-3.

6326 ~~(13.1) 'Mentally retarded person requiring temporary and immediate care' means a~~
 6327 ~~person who is mentally retarded, and:~~

6328 ~~(A) Who presents a substantial risk of imminent harm to himself or others;~~

6329 ~~(B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain~~
 6330 ~~developmental, medical, or behavioral needs; and~~

6331 ~~(C) For whom there currently exists no available, appropriate community residential~~
 6332 ~~setting for meeting the needs of the person.~~

6333 ~~(14)~~(13) 'Person in charge of a client's habilitation' means a superintendent or regional
 6334 state hospital administrator of a facility, a case manager, or any other service provider
 6335 designated by the department to have overall responsibility for implementation of a
 6336 client's individualized program plan. The department shall designate such a person for
 6337 each individual ordered to receive services from the department under this chapter.

6338 ~~(14.1) 'Regional state hospital administrator' means the chief administrative officer of a~~
 6339 ~~state owned or state operated hospital and the state owned or operated community~~
 6340 ~~programs in a region. The regional state hospital administrator, under the supervision of~~
 6341 ~~the regional coordinator, has overall management responsibility for the regional state~~
 6342 ~~hospital and manages services provided by employees of the regional state hospital and~~
 6343 ~~employees of state owned or operated community programs within a mental health,~~
 6344 ~~developmental disabilities, and addictive diseases region established in accordance with~~
 6345 ~~Code Section 37-2-3.~~

6346 ~~(15)~~(14) 'Representatives' means the persons appointed as provided in Code Section
 6347 37-4-107 to receive any notice under this chapter.

6348 ~~(16)~~(15) 'Superintendent' means the chief administrative officer who has overall
 6349 management responsibility at any facility, other than a regional state hospital or state
 6350 owned or operated community program, receiving ~~mentally retarded~~ developmentally
 6351 disabled persons under this chapter or an individual appointed as the designee of such
 6352 superintendent."

6353 SECTION 3-14.

6354 Code Section 37-4-40 of the Official Code of Georgia Annotated, relating to filing petitions
 6355 with the court for according of program services to a mentally retarded person, is amended
 6356 by revising subsections (a) and (d) as follows:

6357 "(a) Any person may file a petition for a court ordered program of services from the
 6358 department for a ~~mentally retarded~~ developmentally disabled citizen of this state. Such

petition shall be executed under oath in the court of the county in which the allegedly ~~mentally retarded~~ developmentally disabled person is a resident or where such person is found. The petition shall assert that the petitioner believes that the client is ~~mentally retarded~~ developmentally disabled and (1) that the petitioner is the parent, guardian, or person standing in loco parentis of the client for whom habilitative services are being sought and that the petitioner is unable to obtain adequate and appropriate programs and services as defined in ~~paragraph (1)~~ of Code Section 37-5-3 and Code Section 20-2-131 to meet the needs of the client or (2) that the petitioner believes that the parent, guardian, or person acting in loco parentis has failed or is unable to secure adequate and appropriate programs and services as defined in ~~paragraph (1)~~ of Code Section 37-5-3 and Code Section 20-2-131 to meet the needs of the client. The petition shall set forth the alleged facts upon which the above assertions are based, the names and addresses, if known, of any witnesses who can allege relevant facts, and, if known, the names and addresses of the nearest relatives and the guardian, if any, of the client."

"(d) If a majority of the evaluation team does not find the allegedly ~~mentally retarded~~ developmentally disabled person to be ~~mentally retarded~~ developmentally disabled and in need of being ordered to receive such services from the department or if a majority of the comprehensive evaluation team finds the client to be a ~~mentally retarded~~ developmentally disabled person in need of court ordered services from the department, the court shall set a hearing on the petition and shall serve notice of such hearing on the petitioner, on the prospective client, and on his representatives or guardian as provided in Code Section 37-4-107; and such notice shall be served within 72 hours after the filing of the report by the evaluation team. Such notice shall be accompanied by:

(1) A copy of the petition;

(2) A notice that the client has a right to counsel and that the client or his representatives may apply immediately to the court to have counsel appointed if the client cannot afford counsel and that the court will appoint counsel for the client unless the client either indicates in writing that he will have retained counsel by the time set for hearing or waives his right to counsel;

(3) A copy of the individualized program plan developed by the evaluation team under subsection (c) of this Code section; and

(4) A notice that the client has a right to be examined by a comprehensive evaluation team of his own choice at his own expense and to have that team submit a suggested individualized program plan for the client which conforms with the requirements of ~~paragraph (9)~~ (11) of Code Section 37-4-2.

The hearing shall be held no sooner than ten days and no later than 15 days, Saturdays, Sundays, and holidays excepted, after the date the evaluation team report is filed. The court

6396 shall grant a continuance upon application by the client or his representatives, if necessary,
 6397 to permit preparation for the hearing."

6398 SECTION 3-15.

6399 Code Section 37-4-109 of the Official Code of Georgia Annotated, relating to establishment
 6400 of patients and staff complaint procedure, is amended as follows:

6401 "37-4-109.

6402 The department shall establish procedures whereby complaints of the client or complaints
 6403 of the staff concerning admission, treatment, or habilitation can be speedily heard. Clients
 6404 shall receive reasonable notice of such procedures. Final decisions shall be made by the
 6405 superintendent, the regional state hospital administrator, or an advisory committee,
 6406 whichever is appropriate, with the right of appeal to the ~~director of the Division of Mental~~
 6407 ~~Health, Developmental Disabilities, and Addictive Diseases~~ commissioner or his or her
 6408 designee. The board shall establish rules and regulations for the implementation of such
 6409 procedures. However, the client shall not be required to utilize these procedures in lieu of
 6410 other available legal remedies."

6411 SECTION 3-16.

6412 Code Section 37-5-3 of the Official Code of Georgia Annotated, relating to definitions
 6413 relative to community services for the mentally retarded, is amended as follows:

6414 "37-5-3.

6415 As used in this chapter, the term:

6416 ~~(1) 'Community community services'~~ means ~~all community-based services~~ a coordinated,
 6417 consumer and family centered, consumer and family directed, and comprehensive system
 6418 of community services, individualized supports, and other forms of assistance that enable
 6419 individuals with developmental disabilities to exercise self-determination, be
 6420 independent, be productive, and be integrated and included in all facets of community
 6421 life. Such services shall include those deemed reasonably necessary by the department
 6422 to provide for education, training, rehabilitation, and care of ~~mentally retarded~~ individuals
 6423 with developmental disabilities and shall include but not be limited to: diagnostic and
 6424 evaluation services; day-care and training services; work-activity services; support
 6425 coordination, day support, and personal support services; supportive employment
 6426 services; community residential services such as group family-care homes, community
 6427 living arrangements, and host homes; transportation services incidental to educational,
 6428 training, and rehabilitation services; technology and durable equipment support and
 6429 services; social services; medical services; and specified home services.

6430 (2) ~~'Mentally retarded individual' means a person whose ability to care for himself is~~
6431 ~~substantially impaired by mental retardation or by a neurological dysfunction associated~~
6432 ~~with mental retardation.~~

6433 (3) ~~'Mental retardation' means a state of significantly subaverage general intellectual~~
6434 ~~functioning existing concurrently with deficits in adaptive behavior and originating in the~~
6435 ~~developmental period."~~

6436 SECTION 3-17.

6437 Code Section 37-5-10 of the Official Code of Georgia Annotated, relating to timetable for
6438 implementation of this chapter, is amended as follows:

6439 "37-5-10.

6440 The department shall employ sufficient professional and nonprofessional persons to assure
6441 full implementation of this chapter by June 30, 1978. All community services specified in
6442 ~~paragraph (1) of~~ Code Section 37-5-3 shall be made available for all mentally retarded
6443 individuals by June 30, 1978."

6444 SECTION 3-18.

6445 Code Section 37-6-1 of the Official Code of Georgia Annotated, relating to definitions
6446 relative to day-care centers for the mentally retarded, is amended as follows:

6447 "37-6-1.

6448 As used in this chapter, the term:

6449 (1) ~~'Day-care~~ day-care center' means any facility that is operated and maintained for and
6450 is qualified to furnish care and training to ~~mentally retarded~~ individuals with
6451 developmental disabilities on less than a 24 hour basis.

6452 (2) ~~'Mentally retarded individual' means any individual who is suffering from mental~~
6453 ~~retardation.~~

6454 (3) ~~'Mental retardation' means a state of subaverage general intellectual functioning~~
6455 ~~which originates during the developmental period and is associated with impairment in~~
6456 ~~adaptive behavior."~~

6457 SECTION 3-19.

6458 Code Section 37-7-1 of the Official Code of Georgia Annotated, relating to definitions
6459 relative to hospitalization of alcoholics, is amended by revising paragraph (17.2) as follows:

6460 "(17.2) 'Regional state hospital administrator' means the chief administrative officer of a
6461 state owned or state operated hospital and the state owned or operated community
6462 programs in a region. The regional state hospital administrator, ~~under the supervision of~~
6463 ~~the regional coordinator~~, has overall management responsibility for the regional state

6464 hospital and manages services provided by employees of the regional state hospital and
6465 employees of state owned or operated community programs within a mental health,
6466 developmental disabilities, and addictive diseases region established in accordance with
6467 Code Section 37-2-3.

6468 **SECTION 3-20.**

6469 Code Section 37-9-2 of the Official Code of Georgia Annotated, relating to definitions
6470 relative to payment of expenses for support, treatment, and care of patients in institutions
6471 generally, is amended by revising paragraph (6) as follows:

6472 "(6) 'State hospital' means any state hospital which now or hereafter comes under the
6473 control of ~~the Division of Mental Health, Developmental Disabilities, and Addictive~~
6474 ~~Diseases~~ of the department and any facility operated in conjunction therewith."

6475 **SECTION 3-21.**

6476 Code Section 37-10-2 of the Official Code of Georgia Annotated, relating to the Interstate
6477 Compact on Mental Health, is amended by revising Article XV as follows:

6478 "ARTICLE XV.

6479 (a) Pursuant to said compact, the Commissioner of ~~Human Resources~~ Behavioral Health
6480 and Developmental Disabilities, or his delegate, is hereby designated to be the compact
6481 administrator. The compact administrator, acting jointly with like officers of other party
6482 States, shall have power to promulgate rules and regulations to carry out more effectively
6483 the terms of the compact. The compact administrator is hereby authorized, empowered and
6484 directed to cooperate with all departments, agencies and officers of and in the government
6485 of this State and its subdivisions in facilitating the proper administration of the compact or
6486 any supplementary agreement or agreements entered into by this State thereunder.

6487 (b) The compact administrator is hereby authorized and empowered to enter into
6488 supplementary agreements with appropriate officials of other States pursuant to Articles
6489 VII and XI of the compact. In the event that such supplementary agreements shall require
6490 or contemplate the use of any institution or facility of this State or require or contemplate
6491 the provision of any service of this State, no such agreement shall have force or effect until
6492 approved by the head of the department or agency under whose jurisdiction said institution
6493 or facility is operated or whose department or agency will be charged with the rendering
6494 of such service.

6495 (c) The compact administrator, using funds appropriated to the Department of ~~Human~~
6496 ~~Resources~~ Behavioral Health and Developmental Disabilities and the Department of
6497 Community Health, may make or arrange for any payments necessary to discharge any

6498 financial obligations imposed upon this State by the compact or by any supplementary
6499 agreement entered into thereunder.

6500 (d) Duly authenticated copies of this Act shall be transmitted by the Secretary of State of
6501 the State of Georgia to the Governor of each State, to the Attorney General and the
6502 Administrator of General Services of the United States, and to the Council of State
6503 Governments, and to the Veterans' Administration.

6504 (e) The compact administrator is hereby directed to consult with the immediate family of
6505 any proposed transferee and, in the case of a proposed transfer from an institution in this
6506 State to an institution in another party State, to take no final action without notice to the
6507 admitting court or in case of admission other than by a court, then notice to the admitting
6508 medical facility is required.

6509 (f) In the administration of this compact, the compact administrator shall in no way
6510 abridge the rights or privileges of any patient to appeal to the courts for a hearing as
6511 provided under the laws of Georgia."

6512 **SECTION 3-22.**

6513 Code Section 40-16-5 of the Official Code of Georgia Annotated, relating to authority of the
6514 commissioner of driver services, is amended by revising paragraph (5) of subsection (d) as
6515 follows:

6516 "(5) All rules and regulations previously adopted which relate to functions transferred
6517 under this chapter from the Department of Human Resources (now known as the
6518 Department of Behavioral Health and Developmental Disabilities for these purposes) to the
6519 Department of Driver Services."

6520 **SECTION 3-23.**

6521 Code Section 42-5-52 of the Official Code of Georgia Annotated, relating to classification
6522 and separation of inmates generally, is amended by revising subsections (d), (e), and (f) as
6523 follows:

6524 "(d) The department is authorized to transfer a mentally diseased inmate from a state or
6525 county correctional institution or other facility operating under its authority to a criminal
6526 ward or facility of the Department of ~~Human Resources~~ Behavioral Health and
6527 Developmental Disabilities. The inmate shall remain in the custody of the Department of
6528 ~~Human Resources~~ Behavioral Health and Developmental Disabilities until proper officials
6529 of the facility at which ~~he~~ the inmate is detained declare that his or her sanity has been
6530 restored, at which time the inmate shall be returned to the custody of the department. At
6531 any time after completion of his or her sentence, an inmate detained by the Department of
6532 ~~Human Resources~~ Behavioral Health and Developmental Disabilities on the grounds that

6533 he or she is mentally diseased may petition for release in accordance with the procedure
 6534 provided in Chapter 3 of Title 37. Prior to completion of his or her sentence, this procedure
 6535 shall not be available to ~~him~~ the inmate.

6536 (e) Upon being presented with a proper certification from the county physician of a county
 6537 where a person has been sentenced to confinement that the person sentenced is addicted to
 6538 drugs or alcohol to the extent that ~~his~~ the person's health will be impaired or ~~his~~ life
 6539 endangered if immediate treatment is not rendered, the department shall transfer the inmate
 6540 to the custody of the Department of ~~Human Resources~~ Behavioral Health and
 6541 Developmental Disabilities. The inmate shall remain in such custody until officials of the
 6542 Department of ~~Human Resources~~ Behavioral Health and Developmental Disabilities
 6543 determine ~~he~~ the inmate is able to serve his or her sentence elsewhere.

6544 (f) The department may transfer any inmate afflicted with active tuberculosis from any
 6545 state or county correctional institution, or any other facility operating under the authority
 6546 of the department, to a tubercular ward or facility specially provided and maintained for
 6547 criminals by the department at a tuberculosis facility or facilities operating under the
 6548 Department of ~~Human Resources~~ Community Health."

6549 **SECTION 3-24.**

6550 Code Section 42-5-52.1 of the Official Code of Georgia Annotated, relating to submission
 6551 to HIV test of inmates, is amended by revising subsection (c) as follows:

6552 "(c) No later than December 31, 1991, the department shall require to submit to an HIV
 6553 test each person who has been committed to the custody of the commissioner to serve time
 6554 in a penal institution of this state and who remains in such custody, or who would be in
 6555 such custody but for having been transferred to the custody of the Department of Human
 6556 Resources (now known as the Department of Behavioral Health and Developmental
 6557 Disabilities) under Code Section 42-5-52, if that person has not submitted to an HIV test
 6558 following that person's most recent commitment to the custody of the commissioner and
 6559 unless that person is in such custody because of having committed an AIDS transmitting
 6560 crime and has already submitted to an HIV test pursuant to Code Section 17-10-15."

6561 **SECTION 3-25.**

6562 Code Section 42-8-63.1 of the Official Code of Georgia Annotated, relating to discharges
 6563 disqualifying individuals from employment, is amended by revising paragraph (4) of
 6564 subsection (a) as follows:

6565 "(4) The request for information is an inquiry about a person who has applied for
 6566 employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides
 6567 services to persons who are mentally ill as defined in Code Section ~~37-3-1~~ 37-1-1 or

6568 ~~mentally retarded~~ developmentally disabled as defined in Code Section ~~37-4-2~~ 37-1-1,
6569 and the person who is the subject of the inquiry to the center was prosecuted for the
6570 offense of sexual battery, incest, pimping, or pandering."

6571 **SECTION 3-26.**

6572 Code Section 49-5-220 of the Official Code of Georgia Annotated, relating to legislative
6573 findings and intent with respect to children and adolescents with severe emotional problems,
6574 is amended as follows:

6575 "49-5-220.

6576 (a) The General Assembly declares its intention and desire to:

6577 (1) Ensure a comprehensive mental health program consisting of early identification,
6578 prevention, and early intervention for every child in Georgia;

6579 (2) Preserve the sanctity of the family unit;

6580 (3) Prevent the unnecessary removal of children and adolescents with a severe emotional
6581 disturbance from their homes;

6582 (4) Prevent the unnecessary placement of these children out of state;

6583 (5) Bring those children home who through use of public funds are inappropriately
6584 placed out of state; and

6585 (6) Develop a coordinated system of care so that children and adolescents with a severe
6586 emotional disturbance and their families will receive appropriate educational,
6587 nonresidential and residential mental health services, and support services, as prescribed
6588 in an individualized plan.

6589 (b) In recognition of the fact that services to these children are provided by several
6590 different agencies, each having a different philosophy, a different mandate, and a different
6591 source of funding, the General Assembly intends that the ~~Division of Mental Health,~~
6592 ~~Developmental Disabilities, and Addictive Diseases of the Department of Human~~
6593 ~~Resources~~ Department of Behavioral Health and Developmental Disabilities shall have the
6594 primary responsibility for planning, developing, and implementing the coordinated system
6595 of care for severely emotionally disturbed children. Further, it recognizes that to enable
6596 severely emotionally disturbed children to develop appropriate behaviors and demonstrate
6597 academic and vocational skills, it is necessary that the Department of Education provide
6598 appropriate education in accordance with P.L. 94-142 and that the ~~Division of Mental~~
6599 ~~Health, Developmental Disabilities, and Addictive Diseases of the Department of Human~~
6600 ~~Resources~~ Department of Behavioral Health and Developmental Disabilities provide
6601 mental health treatment.

6602 (c) Further, in recognition that only a portion of the children needing services are receiving
6603 them and in recognition that not all the services that comprise a coordinated system of care

6604 are currently in existence or do not exist in adequate numbers, the General Assembly
 6605 intends that the ~~Department of Human Resources~~ Department of Behavioral Health and
 6606 Developmental Disabilities and the Department of Education jointly develop and
 6607 implement a State Plan for the Coordinated System of Care for severely or emotionally
 6608 disturbed children or adolescents as defined in paragraph (10) of Code Section 49-5-221.
 6609 (d) The commissioner of the ~~Department of Human Resources~~ behavioral health and
 6610 developmental disabilities and the State School Superintendent shall be responsible for the
 6611 development and implementation of the state plan.
 6612 (e) The commissioner of the ~~Department of Human Resources~~ behavioral health and
 6613 developmental disabilities shall be responsible for preparing this jointly developed state
 6614 plan for publication and dissemination. The commissioner of the ~~Department of Human~~
 6615 ~~Resources~~ behavioral health and developmental disabilities shall also be responsible for
 6616 preparing for publication and dissemination the annual report.
 6617 (f) The receipt of services under this article is not intended to be conditioned upon
 6618 placement of a child in the legal custody, protective supervision, or protection of the
 6619 ~~Department of Human Resources~~ Department of Human Services."

6620 SECTION 3-27.

6621 Code Section 49-5-225 of the Official Code of Georgia Annotated, relating to local
 6622 interagency committees with respect to children and adolescents with severe emotional
 6623 problems, is amended by revising subsection (a) as follows:

6624 "(a) At least one local interagency committee shall be established for each region of the
 6625 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~
 6626 ~~Department of Human Resources~~ Department of Behavioral Health and Developmental
 6627 Disabilities whose permanent membership shall include a local representative from each
 6628 of the following:

- 6629 (1) The community mental health agency responsible for coordinating children's
 6630 services;
- 6631 (2) The Division of Family and Children Services of the Department of Human
 6632 ~~Resources~~ Services;
- 6633 (3) The Department of Juvenile Justice;
- 6634 (4) The Division of Public Health of the Department of ~~Human Resources~~ Community
 6635 Health;
- 6636 (5) A member of the special education staff of the local education agency;
- 6637 (6) The Division of Rehabilitation Services of the Department of Labor."

6638

PART IV

6639

Effective Date and Repealer.

6640

SECTION 4-1.

6641

This Act shall be effective on July 1, 2009.

6642

SECTION 4-2.

6643

All laws and parts of laws in conflict with this Act are repealed.